

10

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.854 OF 2004

Cuttack this the 20th day of June, 2006

Md.Nurul Hoda...Applicant(s)

-VERSUS-

Union of India & Ors. Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

B.B. Mishra
(B.B. MISHRA)
MEMBER (ADMN.)

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(B. PANIGRAHI)
CHAIRMAN

11

**CENTRAL ADMINISTRATIVE TRIBUNAL
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Cuttack this the 20th day of June, 2006

CORAM:

**THE HON'BLE MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN
AND
THE HON'BLE MR.B.B.MISHRA, MEMBER(ADMN.)**

Md.Nurul Hoda, aged about 30 years, Son of Mir Mahafuz Ali,
At/PO:Alakund, Via: Pritipur, District: Jajpur, at present residing
At- C/o.Sakil Khan, Hati Pokhari, PO:Buxi Bazar, PS: Dargha
Bazar, Dist: Cuttack

By the Advocates:

...Applicant
M/s.B.S.Tripathy
M.K.Rath
J.Pati

-VERSUS-

1. Union of India represented through the General Manager,
East Coast Railway, At/PO-Chandrasekharpur,
Bhubaneswar, District: Khurda
2. Divisional Railway Manager, East Coast Railway,
At/PO-Jatni, District: Khurda
3. Chief Workshop Manager, Carriage Repair Workshop,
East Coast Railway, At/PO-Mancheswar, Bhubaneswar,
District: Khurda
4. Workshop Personnel Officer, East Coast Railway,
Carriage Repair Workshop, Mancheswar, At/PO-
Bhubaneswar, District: Khurda
5. Assistant Personnel Officer, Carriage Repair Workshop
East Coast Railway, At/PO-Mancheswar, Bhubaneswar
6. The General Manager, South Eastern Railway, Garden
Reach, Kolkata-43

By the Advocates:

...Respondents
Mr.C.R.Mishra, A.S.C.

ORDER
MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN

2

12 ✓

1. In 1994 the applicant had applied for apprentice training in Fitter trade to the Respondents. His name was sponsored by the Employment Exchange, Bhubaneswar. After interview, he was selected to undergo the training in Fitter trade along with others in 1994-95 batch. Even though he completed the Fitter trade apprentice training, he could not be absorbed in the Respondents-Department. He could learn from other batch-mates that they have been absorbed in the Group-D posts. Therefore, the applicant submitted a representation for giving him an opportunity to service in any Group D post on 19.9.2000, but the Respondent-authorities rejected his prayer on the ground that it was very late to entertain his prayer for considering him for appointment in any Group D post. Therefore, he had filed a case before this Tribunal in O.A.No.82/04, in which a direction was issued to the Respondents to consider his representation which he had submitted earlier. But the Respondents-authorities having rejected the said representation, he has filed the present O.A.

2. The Respondents in their counter-reply have averred that it is true that the applicant had completed apprentice training in Fitter trade. He was also sent an intimation by Under Certificate of Posting vide Annexure R/1. But since he did not opt to join in Group-D post, therefore, others were engaged excepting the

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applicant. It is too late to consider his prayer for giving him any appointment in Group D post.

3. Shri B.S.Tripathy, the learned counsel for the applicant has submitted that he has not received any intimation purported to have been sent by the Respondents ~~by~~ Under Certificate of Posting. This submission has been refuted by Shri C.R.Mishra, the learned counsel for the Respondents. Shri Mishra has stated that the applicant has never whispered a word in his representation that he failed to receive any intimation purported to have been sent by the Respondents. Shri Mishra further submitted that it is a new device the applicant has adopted in his rejoinder after filing of counter-reply by the Respondents.

4. Be that as it may, from the facts, it has emerged that the applicant has completed his apprentice training. It is also true that all his batch-mates have been appointed in Group-D posts. But due to his misfortune he could not avail that opportunity on the ground that he had not received any intimation allegedly sent by the Respondents. But the fact remains that the said intimation was not sent by Regd.Post with A.D. but by mere under certificate of posting. Any letter sent ~~by~~ Under Certificate of Posting cannot presumably be said to have been received by the addressee. In that view of the matter, we hereby direct the Respondents to consider

the applicant's case for appointment in any Group-D post, if he is otherwise eligible and make a fresh representation within a period of two months hence. In the event such a representation is filed by the applicant, the Respondents shall consider the same against a vacancy, if available.

5. With the above observation and direction, this O.A. is disposed of. No costs.


(B.B. MISHRA)
MEMBER (ADMINISTRATIVE)


(B. PANIGRAHI)
CHAIRMAN