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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.889 OF 2004

Cuttack this the 7th Day of August, 2009

CORAM:

THE HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND
THE HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

Radhashyam Behera, aged about 27 years, S/o.Krushna Chandra Behera,
At/PO-Talabandha, Dist-Jajpur

... Applicant

By the Advocates: M/s.S.B.Jena, S.Behera, & S.S.Mohapatra
-VERSUS-

1. Union of India represented by the General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist-Khurda
2. Divisional Manager, East Coast Railways, Khurda Road, Jatni, Dist-Khurda
3. Sr.Divisional Personnel Officer, East Coast Railway, Khurda Road Division, Jatni, Khurda

... Respondents

By the Advocates: Mr.R.C.Rath

ORDER(Oral)

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

In this Original Application, the applicant has prayed for a direction to the Respondents to appoint him as Gangman from the date the irregular recruit bearing Roll No.797404 as per Annexure-5 has been appointed, along with all service and financial benefits.

2. The brief facts of the case, according to applicant, are that he was a candidate for recruitment to the post of Gangman in pursuance of notification the issued in the year 1998 for filling up 1012 vacancies of Gangmen and Token Porters. It is the case of the applicant that having qualified in the physical test he was called to appear at the written test and according to him, he had done exceedingly well in the said test. While he was expecting some favourable response from the Railway authorities, but to his utter dismay, in



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the result published, he did not find his name within the candidates so selected. Having come to know from a news appearing in 'The Samaj' dated 28.8.2004 regarding the illegal practice adopted by the railway authorities in the matter of appointment of Gangman and Token Porter in general and in respect of a candidate bearing roll No.797404 in particular, who, notwithstanding his disqualification in the physical test had been allowed to appear at the written examination and ultimately selected by the Railway authorities, the applicant has approached this Tribunal seeking the relief referred to earlier.

3. In response to the notice issued by this Tribunal, the Respondent-Railways have filed their counter-reply contesting the prayer of the applicant, inter alia submitting that the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri S.B.Jena, learned counsel for the applicant and Shri R.C.Rath, learned counsel appearing for the Respondents and also perused the materials on record.

5. At the outset we would like to say that the applicant, in a cut and dry method, has moved this Tribunal.

6. On the merits of the matter, the Respondent-Railways have submitted that the main thrust of the Original Application is based on a news published in 'The Samaj', which is baseless. They have submitted that the allegation of the applicant that the candidate bearing Roll No.797404 notwithstanding his disqualification in the physical test had been allowed to sit in the written test and was selected for appointment is also baseless and without any evidence or proof. Rather it has been submitted that the candidate bearing Roll No.797404

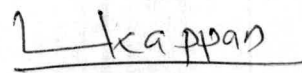


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having qualified in the physical test had been called for the written test. He having come within the zone of consideration based on his merit position in the written test, his name was accordingly, put in the select list of 1012 successful candidates.

7. The above statement of the Respondents has not been rebutted by the applicant by filing any rejoinder. In the circumstances, we have no hesitation to hold that the Original Application as laid is wholly misconceived.

8. Having regard to the above discussions, the O.A., apart from being not maintainable, is devoid of merit and accordingly, the same is dismissed, leaving the parties to bear their own costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER