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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 1272 OF 2004  
CUTTACK, THIS THE ~~6~~<sup>14</sup> DAY OF ~~October~~<sup>October</sup>, 2005

Prafulla Kumar Chaulia.....APPLICANT

V S

Union of India & others .....RESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? 74
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 75

*Chaulia*  
05/10/05  
(M.R.MOHANTY)  
MEMBER(Judicial)

*Som*  
(B.N.SOM)  
VICE-CHAIRMAN

V  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 1272 OF 2004  
CUTTACK, THIS THE ~~10~~ DAY OF ~~OCTOBER~~, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HONBLE SHRI M.R.MOHANTY, MEMBER(J)

.....  
Shri Prafulla Kumar Chaulia, aged about 55 years, Son of Late Debar Chand Chaulia, At-Nilakanthapara, P.O.-Kodagan, Athamalick, Angul, Dist-Angul.

.....Applicant.

Advocate(s) for the Applicant - Mr. Kailash Chandra Kanungo,  
Mr. Sankarsan Behera.

VERSUS

1. Secretary, Ministry of Personnel, Public Grievance and Pension, Deptt. Of Personnel & Training, North Block, New Delhi-1.
2. State of Orissa represented through Chief Secretary to Govt. of Orissa, Bhubaneswar, Dist. Khurda.
3. Union Public Service Commission represented through its Secretary, Dholpur House, New Delhi.

.....Respondents

Advocate(s) for the Respondents - Mr B.Mohapatra (For R-3,ASC),  
Mr.G.Singh (For R-1, ASC),  
Mr.A.N.Routray (Govt. Advocate).

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## ORDER

### SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Prafulla Kumar Chaulia, presently working as Collector and District Magistrate, Dist. Subarnapur, has filed this O.A. under Section 19 of the Central Administrative Tribunal's Act being aggrieved that though eligible, his name was not considered by the Selection Committee for promotion of Orissa Administrative Service (OAS, in short) Officers to the cadre of Indian Administrative Services (IAS, in short) for the year 2002. He has, therefore, approached the Tribunal to direct the Respondents to include his name in the list of eligible officers in the zone of consideration and that his case may be considered by the Selection Committee and the result of such consideration be communicated to him with the leave of this Tribunal and any other orders that may be allowed.

2. The undisputed facts of the case are that the applicant belongs to the OAS. A Selection Committee meeting was convened for the preparation of the select list of OAS officers for promotion to IAS for the year 2002. This meeting although due to be held during the year 2002 could not be held during that year due to unavailability of ACRs of the eligible officers. In the circumstances, the select list for the year 2002 was prepared during the year 2003. It is also not denied that the applicant's name was not included in the list of eligible OAS Officers for consideration for promotion during the year 2002 on the ground that the applicant did not possess eligibility on the crucial date for determining the eligibility of the officers.

for the select list of 2002. By application of the relevant IAS Regulations, 1955 the names of the officers who had not attained the age of 54 years on the first day of January of the year 2003 were put in ~~an~~ eligible list and placed before the Selection Committee consideration for the select list of 2003. As the applicant had already crossed the age of 54 years as on 1.1.03, his name was not included in the eligibility list. The grievance of the applicant is that in view of the fact that the select list of 2002 was prepared in the year 2003, the eligibility of the Officers for the select list of 2002 should have been determined as per their eligibility as on 1.1.02 and not on 1.1.03.

3. We have heard the Ld. Counsel for both the parties and have perused the records placed before us; including the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 as amended vide Government of India notification No. 14015/52/96-AIS (I)-A, dated 31.12.97.

4. The applicant by referring to sub-para 3 of Regulation 5 has submitted that the provision exists that the Selection Committee can prepare year-wise select list which means that the Selection Committee may not sit every year for preparation of the select list for promotion to IAS, and in that case, it will prepare year-wise list only. In the circumstances, he has submitted that the eligibility conditions, as prescribed for promotion of State Civil Service Officers (SCS, in short) should be determined with reference to the year for which the select list is made. Further, referring to Regulation 5(3), he has submitted that whereas earlier the provision was that the Committee shall not consider the cases of member of the SCS who have

-4-

attained the age of 54 years on the first day of January of the year in which the select list is prepared, the same was changed to read as follows:

"The Committee shall not consider the cases of the members of the State Civil Service who have attained the age of 54 years on the first day of January of the year for which the select list is prepared. " (Emphasis supplied).

In this case as the select list for the year 2002 was prepared in the year 2003, the Respondents were bound by the Regulation to consider the age of the members of the State Civil Service Officers as on first day of January 2002.

5. Respondent No.2 has submitted that the crucial date for determining the eligibility in respect of the vacancy that occurred during 1<sup>st</sup> January and 31<sup>st</sup> December of the year is reckoned as on 1<sup>st</sup> January of the subsequent year taking into account the vacancies occurring in the last 12 months and the select list is called the select list of that year as reckoned on the 1<sup>st</sup> January of the subsequent year. A plain reading of the provision under Regulation 5(3) clearly reveals that the members of the SCS who have attained the age of 54 years on the 1<sup>st</sup> day of January of the year for which the select list is prepared and it is not disputed that the applicant did not

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Attain the age of 54 years on 1.1.2002 for which the select list was to be prepared. Respondent Nos. 2 and 3 in their counters have stated that the applicant was considered at Sl. No.23 in the eligibility list of 2002. It is further submitted that on overall relative assessment of his service records, he was graded as "Very Good". But his name could not be included in the select list due to the statutory limit on the size of the select list and he was not senior enough to be covered by the number of vacancies.

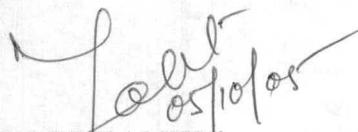
6. From the above facts of the case, it is clear that the grievance of the applicant that he should have been considered as one of the eligible officers for the year 2002 has not been ignored by the Respondents. His name was included in the eligibility list of 2002 as they have disclosed in their counter reply. However, his name did not find place in the select list on the ground of merit. As the sole issue raised by the applicant in this O.A. was based on his understanding that his name was not included in the eligibility list of 2002 is found to be factually not correct, nothing survives in this O.A. for adjudication. We are also of the view that no case for striking down sub-regulation (3) has been made out. Having attained the age of 54 years as on

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-6-

1.1.2003, obviously he could not be considered for the select list of 2003 as per Regulation 5(3). Accordingly, the O.A. fails. No costs.

  
(M.R.MOHANTY)  
MEMBER(JUDICIAL)

  
(B.N.SOM)  
VICE-CHAIRMAN

Kumar