

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.57 OF 2005

Cuttack this the 10th day of April, 2006

Kedar Barik... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

FOR INSTRUCTIONS

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


**(B.PANIGRAHI)
CHAIRMAN**

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO.57/05
Cuttack this the 10th day of April, 1006**

CORAM:

HON'BLE MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN

...

Kedar Barik, aged about 57 years, Son of late Gopinath Barik, residing At-Jhhi Kharada Satru Suan, PO-Retanga, PS-Air Field, Dist-Khurda, at present working as Commission Vendor in Catering Unit, Bhubaneswar, Khurda Division, PO-Jatni under Asst.Commercial Manager, East Coast Railway (Previously S.E.Railway) Khurda Road

...Applicant

By the Advocates : Dr.D.B.Mishra

-VERSUS-

1. Union of India represented through its General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar
2. Chief Commercial Manager (Catg.), S.E.Railway, 14, Strand Road, 9th Floor, Kolkata-1
3. Sr.Divisional Personnel Officer, East Coast Railway, Khurda Road
4. Sr.Divisional Commercial Manager, East Coast Railway, Khurda Road
5. Catering Manager, East Coast Railway, Bhubaneswar

...Respondents

By the Advocates : Mr.O.N.Ghosh

ORDER
(ORAL)

MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN: Applicant has claimed to have been engaged as a Commission Vendor in the Catering Unit of Bhubaneswar sometimes in 1976. The letter of the Railway Board dated 22.6.1978 communicated to General Managers of All India Railway reveals the decision regarding absorption of Commission Vendors in regular Class-IV scale of pay in the Catering Departments of the Railways. On 18.1.1988, the Respondent-authorities published a provisional seniority list of Commission Vendors vide Annexure-2. It is not in dispute that the name of the applicant figures in the said provisional seniority list. Hon'ble Supreme Court in Writ Petition No.196/95 issued a mandate against the Railway-authorities with regard to grant a consolidated pay of Rs.1500/- to the Commission Vendors, by way of interim relief. In May, 1999, minimum wages have been paid and sample computerized pay slips have been issued to some of the Commission Vendors in 2004. A screening test was conducted on 1.11.2000 in which applicant's name figures at Sl. No.38. Some of the Commission Vendors were asked to appear at the medical test and they have been issued with appointment orders in Group-D posts. The applicant's grievance is that although many junior

Commission Vendors had been issued such appointment orders in Group-D posts, but the Respondent-authorities failed to call him for medical test as well as to pass an order of absorption in Group-D post. Therefore, being aggrieved by such discriminatory order passed by the Respondent-authorities, the applicant filed a representation vide Annexure-12 dated 11.10.2004. Before this representation could be submitted, it appears that the Respondent-authorities had passed an order on 1.10.2004 vide Annexure-11 stating therein that the applicant failed to produce the authority of engagement letter and security deposit receipt. The applicant has claimed that security deposit has been made to the authorities, xerox copy of which was enclosed.

2. Shri O.N.Ghosh, learned counsel appearing on behalf of the Respondent-authorities has made his submission relying on the averments in Paragraph-4 of the counter-reply. The main basis of the objection raised by the Respondents is that since the applicant failed to produce the original letter of engagement as well as security deposit receipt, therefore, the authenticity of the applicant's engagement could not be taken as true even on face value.

3. I fail to understand the stand taken by the Respondent-authorities inasmuch as the provisional seniority list itself

envisages that the applicant was engaged as Commission Vendor and that by itself presupposes that the letter of engagement as Commission Vendor must have been issued by the Respondents. The second ground taken by the Respondent-authorities is that the original security deposit receipt has not been produced by the applicant. Dr.Mishra, learned counsel for the applicant, while retorting the said statement has relied upon the xerox copy of the receipt bearing No.068270, by virtue of which an amount of Rs.10/- only was deposited on 17.8.1983 towards security. In that view of the matter, it is open to the Respondent-authorities to verify the authenticity of the xerox copy with reference to original document to know if actually such an amount was tendered by the applicant on 17.8.1983 under receipt No.068270 towards security deposit. If that receipt is found to be genuine, since his name is appearing in the provisional seniority list as Commission Vendor, the Respondent-authorities shall consider to hold a screening test for the purpose of sending the applicant for medical examination and subsequently for giving him appointment in any Group-D post.

4. It has been brought to my notice that the Senior Commercial Manager, S.E.Railway, vide Annexure-8 has issued a letter dated 4.9.2003 stating the availability of records in respect of the

12 ✓

applicant with the Railways. The applicant was under the S.E.Railway before bifurcation of the zones. In that view of the matter it is open to the East Coast Railway authorities to verify the authenticity of the documents with reference to the records available with the S.E.Railway, and, if those documents are found to be genuine, steps be taken in the matter of giving appointment to the applicant in Group-D post.

5. Another objection has been raised by the Respondents that the applicant has not furnished his date of birth, on the basis of which his service record is to be prepared. I also fail to appreciate this contention of the Respondents inasmuch as how the name of the applicant could appear in the provisional seniority list without verifying the date of birth at that time in 1988. However, it is for the applicant to furnish further the authenticated document in support of his date of birth before ensuing screening test is conducted by the Respondent-authorities.

6. This exercise shall be completed within a period of four months from the date of communication of this order.

7. With the above observations and direction, this O.A. is disposed of. No costs.


(B.PANIGRAHI)
CHAIRMAN