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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.145 OF 2005
ORDER DATED 17.07.06

CORAM:

HON'BLE JUSTICE R.K.BATTA, VICE-CHAIRMAN
AND
HON'BLE SHRI B.B.MISHRA, MEMBER (ADMINISTRATIVE)

BETWEEN:

Sri Durjaya Kumar Sahoo, aged about 21 years, son of Sri Rama Natha Sahoo, at present residing at Qrs.No.E-19/4, Sector-D, carriage Repair Workshop at/PO:Mancheswar Railway colony, Bhubaneswar, District: Khurda.

.....Applicant

Vrs.

1. Union of India, represented through the General Manager, East Coast Railway, At/PO: Chandrasekharpur Rail Vihar, Bhubaneswar, District: Khurda.
2. Chief Workshop Manager(P), Carriage Repair Workshop, Mancheswar East Coast Railway, At/PO:Mancheswar Railway Colony, Bhubaneswar, District:Khurda.
3. The Workshop Personnel Officer, East Coast Railway, Carriage Repair Workshop, Mancheswar, At/PO:Mancheswar Railway Colony, Bhubaneswar, District:Khurda.
4. The Administrative Officer, Carriage Repair Workshop, East Coast Railway, Mancheswar, PO:Mancheswar Railway Colony, Bhubaneswar, District:Khurda.

..... Respondents

ORDER

Hon'ble Shri R.K.Batta.

The Applicant seeks directions to quash the engagement notice dtd.28.10.04(Annexure-A/6) and direction to the Respondents to modify the mode of selection suitably to the effect that weightage is given to the applicant as a ward of a Railway Servant and the marks secured in I.T.I. examination to be taken into consideration.

2. The case of the Applicant is that his father is working as Technician Grade-I under the Chief Workshop manager, Carriage Repair Workshop, East Coast Railway, Mancheswar. Applications were invited for engagement of apprentices vide notice dtd. 24.11.2003 and he applied for the same under the category of ward of railway employee. The applicant has also furnished the declaration as required in the application form but no weightage was given to the Applicant while making selection. The selection was made on the basis of marks secured in the matriculation examination. Being aggrieved by the method of selection, a large number of railway employees submitted a representation on 12.12.03 but no action was taken



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in the matter. In the mean time, another engagement notice dtd.28.10.04 was issued for imparting training in the Carriage Repair workshop as Act ~~of~~ apprentices for the year 2005-06. The Applicant claims that he had fulfilled the eligibility criteria but he apprehended that selection will be done on the basis of marks secured in the matriculation with weightage for additional technical qualification and no weightage will be given to the ward of Railway employee. The Applicant has secured 65.8% in matriculation and completed I.T.I. in Fitter Trade with 83.2% of marks.

3. The Respondents in their reply have stated that the Applicant has challenged the engagement notice dtd.28.10.04 on the ground that he had applied during the year 2003 but he was aggrieved by the method of selection by not giving any weightage to the wards of the railway employee and in the meantime another engagement notice has been issued. The Applicant did not challenge the selection for the year 2004-05 and as such he cannot challenge the Annexure-A/6 for the year 2005-06. The Respondents categorically contended that there is no provision in engagement notice giving weightage to the wards of the railway employee and the Annexure-A/4 only provides for the sources from which the candidates are to be selected. The Respondents also contend that the railway employees had filed joint representations pursuant to which the CWM had discussed the matter with the representatives and provisions as also the rule position was explained to them that

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there is no provision to give weightage or preference to the wards of railway employees. The Respondents also contend that if any weightage is to be given to the wards of railway employees, the same will violate the provisions of the Constitution of India on the ground of discrimination.

4. The Respondents have also stated that in Fitter Trade the last candidate who was called for selection had secured 77.07% marks in Matriculation with weightage of 5% of ITI Technical Qualification and as such the percentage stood 82.07%. The Respondents further contend that even if the Application of the Applicant was in order, he has secured only 65.87% marks at Matriculation and after weightage he would get 73.87% marks whereas the cut of marks for calling for selection during that year was 82.07%.

5. We have heard the Ld.Counsel for both the parties.

6. The Ld.Counsel for the Applicant has argued before us that the O.A. may be disposed of with a direction to the Respondents to dispose of the representations filed by them. The main contention of the Applicant is that weightage should have been given to engage the ward of Railway employee. In this connection our attention has been drawn to Annexure-A/4 and particularly to paragraph-5 thereof which provides that the engagement of Act Apprentices will be from the following sources:

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- i. nearest Employment Exchange;
- ii. SC/ST organizations;
- iii. ITI's wherever existing; and
- iv. Wards of Railway employees.

This paragraph only identifies the categories of persons wherefrom the apprentices are to be engaged but only gives eligibility to the persons for consideration. This paragraph cannot be interpreted as a rule of preference in favour of any of the said four categories mentioned thereunder. The argument on behalf of the Applicant that the Applicant was entitled to preference being ward of Railway Employee is without any merit.

7. The Ld.Counsel for the Applicant also stated that he had made declaration as required in the application form that he was a ward of railway employee. The same does not make any difference or help the Applicant. The application of the Applicant was rejected for want of submitting certain documents and the said order is not challenged. The Applicant had earlier appeared for the examination and was not selected in the relevant examination. The last person who was called for the purpose of selection had obtained 82.7% marks including additional marks for technical qualifications. The Applicant with additional marks of technical qualifications will get only

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73.87% marks. Therefore, obviously evenif ,otherwise, the Applicant was eligible, he would not called for selection.

8. We, therefore, do not find any merit in this O.A. Accordingly, this O.A. is dismissed with no order as to costs.

9. Request of Ld.Counsel for the Applicant for directions to the Respondents to dispose of representation of the Applicant is hereby rejected in view of the above discussions.

B.P. L.
MEMBER (ADMN.)

R.
VICE-CHAIRMAN

Copg of Order
dt. 17.7.06 may
be given to both
the Counsels.

B.
27.7.06

W.
27/7/06
S.O.(J)