



FORM No. 4

See Rule (12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORDER SHEET

Application No. O.A. 594 of 2005-

Applicant(s) Prasanta Kumar Nayak Respondent(s) Union of India & Others

Advocate for Applicant(s) M/s. A. K. Mishra Advocate for Respondent(s).....

J. Sengupta
D. K. Panda
G. Sinha
A. Mishra

NOTES OF THE REGISTRY

T.P.O at Rs. 50/- filed.
Copy Served
For favour of Regis. No.
action as per as per
memo dt 18.7.2005

18.7.05 S.O.(J)
18.7.05
Regd
3
Updfr

For Admision &
Information order
copy served.

18.7.05
Renu

ORDERS OF THE TRIBUNAL

REGISTER

Updfr

Regd

Order dated 19.7.05

Heard Mr. J. Sengupta, Ld. Counsel for the applicant. A copy of this O.A. has been served on Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel.

Applicant in this O.A. has approached this Tribunal being aggrieved by the circular dtd. 19.10.05 issued by Res. No. 2 declaring policy regarding issue of NOC for the official applying for the posts within the department or elsewhere.

The case of the applicant is that he had applied for the post of Tax Assistant (Income Tax & Central Excise) in response to the advertisement dtd. 5.12.05 issued by Staff Selection Commission and he being

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a serving Government official, he was obliged to submit NOC from his employer as per the condition stated in that advertisement. Accordingly, he had approached the Respondents for issue of NOC in his favour.

By their letter dtd.4.7.05, Res. No.2 has informed him that NOC in his favour cannot be issued due to policy decision taken by Director, National Centre of Organic Farming vide his letter No.5-7/2004/NM(A) dtd.7.10.2004 which, they clarified, has been communicated to him by their letter of even number dtd. 19.10.2004. The grievance of the applicant is that his candidature is likely to be rejected by the Staff Selection Commission if he is not able to furnish the NOC from his employer by 19.7.2005 which will greatly prejudice his career aspiration.

We have referred to the said policy letter dtd. 19.10.2004 which is placed at Annexure-A/4. The policy letter runs as follows:

"A policy decision has been taken by the competent authority of DAC that application of no officer of the National Project of Organic Farming applying for posts in the Department of DAC or anywhere else may be forwarded in "Public Interest". It is, therefore, advised to note this decision for strict compliance."

From the above policy decision it appears that the Respondents will not issue any NOC in public interest. The Sr. Standing Counsel submitted that the policy decision related to forwarding of an application and in this case the application having been already submitted by the applicant directly to the Staff Selection Commission, the question of forwarding his application does not arise. On the other hand, the Ld. Counsel for the applicant repeatedly submitted

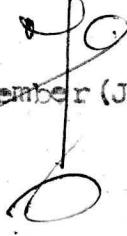
NOTES OF THE REGISTRY

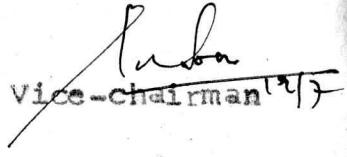
ORDERS OF THE TRIBUNAL

before us that non-issue of a NOC in his favour by his present employer will lead to cancellation of his candidature by the SSC.

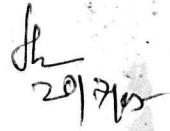
Having regard to the above facts and circumstances of the case, it would suffice to dispose of this O.A. at the admission stage by directing the Res. No. 2 to issue a NOC in favour of the applicant keeping in view their policy decision as communicated by Res. No. 2 vide his letter at Annexure-A/4. However, liberty is granted to the applicant to ventilate his grievance, in case he is so advised, on the ground that the employer cannot deny him the benefit of NOC in public interest.

With the above direction this O.A. is disposed of at the admission stage.


Member (J)


Vice-Chairman (P)

Copies of order No 19/7/05-
22nd to counsel for both
sides.


Jh
20/7/05