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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 654 of 2005
Cuttack, this the 8th day of December, 2006.

JANMEJAYA MOHANTY

..... APPLICANT.

Versus

UNION OF INDIA & ORS.

..... RESPONDENTS

FOR INSTRUCTIONS

1. WHETHER it be sent to reporters or not? *yes*

2. WHETHER it be circulated to all the Benches of the
Tribunal or not? *yes*


(N.D. RAGHAVAN)
VICE-CHAIRMAN


(B.B. MISHRA)
MEMBER (A)

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CUTTACK BENCH: CUTTACK.**

ORIGINAL APPLICATION NO. 654 of 2005

Cuttack, this the 8th day of December, 2006.

C O R A M:

THE HON'BLE MR.N.D.RAGHAVAN, VICE-CHAIRMAN

&

THE HON'BLE MR.B.B.MISHRA, MEMBER(A)

Shri Janmejaya Mohanty,
Aged about 26 years,
S/o. Bhagabat Mohanty,
At: Plot No.946 (B), Lingaraj Nagar,
Po: Old Town, Bhubaneswar-2, Khurda,

.... APPLICANT.

BY legal practitioner: M/s. S.K.Patnaik, B.P.Das, D.P.Das,
D.Patnaik, N.Satpathy, P.K.Patra,
Advocates.

-VERSUS-

- 1 Union of India, represented through Chief Postmaster General,
Orissa, Postal Circle, Bhubaneswar-1, Dist. Khurda.
2. The Director, Postal Services, Office of CPMG, Orissa,
Bhubaneswar-1, Dist. Khurda.

. RESPONDENTS

By legal practitioner **Mr. U.B.Mohapatra, SSC**

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ORDER

MR. B.B.MISHRA, MEMBER(A):

Undisputed fact of this case is that pursuant to the advertisement under Annexure-R/1, the application of the applicant to be considered as a sports candidate in the discipline of good physique was received by the Respondents before the last date fixed in the advertisement. It is also not in dispute that he has possessed certificates in the sports event of good physique in Inter College Tournament as also National Level Tournament. In spite of fulfilling the conditions stipulated in the advertisement, he having not been called to appear in the tests, under the sports person of good physique, and calling others who are having inferior certificate of achievements in sports than the Applicant, is the cause to approach this Tribunal in the present Original Application filed U/S. 19 of the Administrative Tribunals Act, 1985 praying for the following relief:

- “(i) Let the respondents be directed to issue call letter in favour of the applicant to appear in the interview for the post of Postal/Sorting Assistant to be held on 10.08.2005 at 10.00 A.M. at Dhenkanal.
- (ii) Or else, the respondents may be directed to show cause within short period as to why the call letter for interview for selection of Postal/Sorting Assistant as per the

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advertisement will not be issued in favour of the applicant.

- (iii) Or in alternative, the respondents may be directed to keep one post reserved for the applicant until the disposal of this applicant."

2. Respondents have filed their counter stating therein that Indian Body Building Federation conducts the National Body Building Championship every year which is known as Federation Cup. Federation Cup and Senior National and Inter State Body Building Federation are not same. Applicant has participated in the Federation Cup in the year 2000 and mere participating in the Inter College Championship does not necessarily make him eligible. It has been averred that the Applicant has only participated in State Level and other competitions such as Kalinga Kumar, Kalinga Shree etc. It has been stated by them that since it was not practically possible to call all the candidates, the Selection Committee decided only to call those eligible candidates who have senior national participation and accordingly three candidates who have one year and more years participation in Senior National Level competition were called to face the test. The Respondents have denied the assertion of the applicant that he has been participating in Federation Cup every year from 2000. They while denying any nepotism in the matter of eliminating

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the candidate to call for interview, have stated that as the applicant does not have the necessary qualification, he was not rightly called to the interview. It has also been stated that pursuant to the interim orders dated 05.08.2005, the Applicant has been allowed to participate in the selection test but the result of the said selection test has been kept in sealed cover.

3. Applicant has filed rejoinder denying the stand taken in the counter.

4. Heard Mr. S.K. Patnaik, Learned Counsel for the Applicant and Mr. Uma Ballav Mohapatra, Learned Senior Standing Counsel for the Respondents and went through the materials placed on record.

5. Learned Counsel for the Applicant has submitted that the Selection Committee has no authority or power to deviate from the advertisement. The ground based on which the applicant was not permitted to appear in the test is not based either on the constitutional provisions i.e. right to equality nor the stipulations given in the advertisement. Besides, he has pointed out that the certificate enclosed by the applicant is a complete proof of his participation in the National Level competition which cannot be disputed because Federation Cup is a national level competition.

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Federation Cup organized by apex Sports Associations such as Indian Football Association, Indian Hockey Federation etc. are National Championship. The applicant represented the State of Orissa in November, 2000 in the National Body Building Championship (Federation Cup) organized by the Apex Body. He has also argued that though Manoj Kumar Paikray does not have such certificate he was called for interview whereas the applicant's case was ignored.

6. Learned Senior Standing Counsel for the Respondents has argued that the Selection Committee is headed by high level officers. They have no personal knowledge with regard to the applicant nor about the persons who have been called to appear the tests. Since it was not practically possible to call all the candidates, the said Selection Committee decided to short list the candidates and accordingly called the candidates who have participated one and more years in Senior National levels. He has also stated that there being no wrong on the decision of the selection committee, this tribunal may not interfere in the matter.

7. Before expressing any opinion on the merits of the matter, we would like to observe that the applicant's prayers in this OA are (i) to direct the respondents to issue call letter in favour of applicant to appear the interview to be held on 10.08.2005 at 10.00

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AM at Dhenkanal; (ii) or else the respondents be directed to show cause within short period as to why call letter for interview for selection of postal/sorting assistant as per the advertisement will not be issued in favour of applicant; and (iii) the respondents be directed to keep one post reserved for applicant until disposal of this OA. In compliance of the orders of this Tribunal, the Respondents have filed their counter as also they have allowed the applicant to appear in the test.

8. However, since the matter has been heard at length on merit, we would like to record that the Respondents have stated in their counter that the applicant is having the requisite qualification for the post. But he was not called for the interview because of the short listing procedure adopted by the Selection Committee based on a reasonable classification. It is not the case of the applicant that his case was ignored due to any malicious intention of the Selection Committee. From the check list produced by the Respondents, we also find that like the applicant, many candidates have not been called to face the interview. The power of the Selection Committee to short list the candidates on some rational and reasonable basis has been upheld by the Hon'ble Apex Court in the case of **M.P. Public Service Commission v. Navnit Kumar Potdar & Anr** JT (1994)6 SC 302. In

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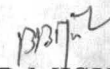
that case, for the purpose of short listing, a longer period of experience than the minimum prescribed was used as a criterion by the Public Service Commission for calling candidates for an interview. This was also upheld by the Hon'ble Court in the case of **Government of A.P. v. P. Dilip Kumar & Anr**, JT (1993) 2 SC 138 holding that it is always open to the recruiting agency to screen candidates due for consideration at the threshold of the process of selection by prescribing higher eligibility qualification so that the field of selection can be narrowed down with the ultimate objective of promoting candidates with higher qualifications to enter the zone of consideration

9. In the case of **UPSC vrs. Hiranyalal Dev and others**, AIR 1988 SC 1069 the Hon'ble Apex Court unequivocally held that "The jurisdiction to make the selection vested in the Selection Committee...The powers to make selection were vested unto the Selection Committee under the relevant rules and the Tribunal could not have played the role which the Selection Committee had to play. The Tribunal could not have substituted itself in place of the Selection Committee and made the selection as if the Tribunal itself was exercising the powers of the Selection Committee."

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10. In view of the dicta laid down by the Hon'ble Apex Court, we find no error in the action of the Respondents in not calling the Applicant to appear in the test. Hence this OA stands dismissed by leaving the parties to bear their own costs.


(N.D. RAGHAVAN) 08/12/06.
VICE-CHAIRMAN


(B.B. MISHRA)
MEMBER (A)