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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.797 OF 2005
Cuttack, this the 07th Day of December, 2007

Sri Sk. Nazimuddin Mandal & Others..... Applicants

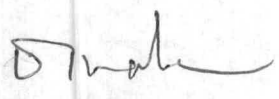
Vs.

Union of India & Others Respondents

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?


(C.R. MOHAPATRA)
MEMBER(A)


(DR. D.K.SAHU)
MEMBER(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 797 OF 2005

Cuttack, this the 07th Day of December, 2007

CORAM:

HON'BLE DR. D.K.SAHU, MEMBER(J)

HON'BLE SHRI C.R. MOHAPATRA, MEMBER(A)

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IN THE CASE OF:

1. Sri Sk. Nazimuddin Mondal, aged about 47 years son of Late Sk. Muniruddin Mondal, At.Qr. No.D-17/3, Type-III, At/Po- Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda.(O.A. No.797/05)
2. Sri Suren Chandra Panigraphi, aged about 51 years son of Late Trinath Panigrahi, At.Qr. No.B/17/3, Type-III, At/Po- Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda.(O.A.821/05)
3. Sri Purna Ch. Singh,, aged about 45 years son of Late Baidyanath Singh, At.Qr. No.G-11/2, Type-II, At/Po- Mancheswar Railway Colony, Sector A, Bhubaneswar, Dist-Khurda.(O.A.822/05)
4. Sri Gandham Uma Maheswar Rao, aged about 52 years son of Late G. Keshab Rao, At.Qr. No.C-18/4, Type-III, At/Po- Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda.(O.A.823/05)
5. Sri Satyabrata Mishra, aged about 36 years son of Raghunath Mishra, Plot No.D-41, Lingaraj Vihar, Pokhharipur Bhubaneswar, Dist-Khurda-20.(O.A.824/05)
6. Sri Surendra Nath Dash, aged about 53 years son of Banabehari Dash, Plot No.351 A, Sishupal Chhak, Po-Sishupal, Bhubaneswar, Dist-Khurda.(O.A.825/05)

BT-ol

All are at present working as Junior Engineer, + Grade I, under Chief Workshop Manager, E.Co. Rly., Carriage Repair Workshop, Mancheswar, At/Po-Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda

..... Applicants

By the Advocate(s)

M/s. B.S. Tripathy,
M.K. Rath,
J. Pati.

Vs.

1. Union of India represented thorough the General Manager, E.C. Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer, E.Co. Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist.Khurda.
3. The Chief Workshop Engineer, E.Co. Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist.Khurda.
4. The Chief Workshop Manager, E.Co. Railway, Carriage Repair Workshop, Mancheswar, At/Po-Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda..
5. The Workshop Personnel Officer, E.Co. Railway, Carriage Repair Workshop, Mancheswar, At/Po-Mancheswar Railway Colony, Bhubaneswar, Dist-Khurda..
6. Shri Pankaj Singh Tomar.
7. Shri Kumar Uma Sarnam,
8. Shri Mohan Kumar Mudali,
9. Shri Mahendra Oram.

Respondent(s)

By the Advocate(s)

T. Rath,
Shri Ashok Mohanty

Respondent No.6 to 9 are at present working as Junior Engineer, Grade I (Workshop) under the Chief Workshop Manager, East Coast Railway, Carriage Repair Workshop, Mancheswar At/Po.Mancheswar, Railway Colony, Bhubaneswar, Dist-Khurda.

O R D E R

DR. D.K.SAHU, MEMBER(J)

The applicants six in number have been serving as Junior Engineers under Respondent No.4, the Chief Workshop Manager, East Coast Railway. In accordance with the instructions contained in Indian Railway Manual, the Junior Engineers in Grade-1 have been asked to appear in written + selection test for their promotion to the post of Section

Engineer (Workshop). Twenty one such persons including the applicants appeared the test held on 26.07.05 and 25.08.05 but names of the applicants did not find place in the list of candidates qualified in written test, however names of five such persons arraigned as private respondents find place in that list Annexure-A/3. The applicants submit that there was illegality and irregularity in conduct of such test. Their main grievance is that the question papers have been set in English language though those should have been set both in Hindi and English language. So, now they seek to quash the process of selection inclusive of the list of qualifying candidates (Annexure-A/3) with consequential relief to direct respondents to give promotion to the applicants to the post of Section Engineers.

2. The respondents in their written reply submit that the applicants and others appeared at the test which was held in accordance with the IREM. There was no illegality or irregularity in conduct of such test. They were not found suitable, so their names did not find place in the Annexure-A/3.

3. Admittedly the applicants appeared at the test but now they impugn the same basically on the ground that the question papers should have been set, both in English and Hindi language, but in the instant case those have been set in English language.

4. In the entire pleading nothing has been stated as to how they have been prejudiced or aggrieved when the question papers were set only in English language. The applicants are Junior Engineers and there is no dispute that they well know English language. Accordingly, setting up of the question paper by English language, in no way has affected the applicants.

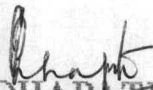
5. The applicants have appeared at the examination but after being found un-suitable they challenge the test on the above ground. The Apex Court in the case of Madan Lal and Others Vs. State of Jammu and Kashmir and others reported in AIR 1995 Supreme Court 1088 held

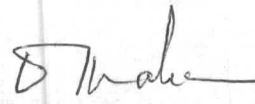
“the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected either at the said interview and who ultimately find himself to be un-successful”.

6. The applicants having appeared at the test now cannot challenge the test. Further as stated above, setting of question paper only in English language does not effect their rights and they are in no way prejudiced.

7. We find no reason to interfere with Annexure-A/3.

8. The application is thus devoid of merit. The Original Application is dismissed. No order as to costs.


(C.R. MOHAPATRA)
MEMBER(A)


(DR. D.K.SAHU)
MEMBER(J)