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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.171 OF 2006

Cuttack, this the ~~14th~~ Day of February , 2008

Sri Fakir Nayak Applicant

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?


(DR. K.B.S. RAJAN)
MEMBER(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 171 OF 2006

Cuttack, this the ~~14th~~ Day of February, 2008

CORAM:

HON'BLE DR. K.B.S. RAJAN, MEMBER(J)

IN THE CASE OF:

Sri Fakir Nayak, aged about 46 years son of Late Daitari Nayak, Village-Bonapada, P.O. Konark, Dist.Puri, at present working as a Casual Chowkidar with Temporary Status, Office of the Chemist Branch, A.S.I., Sub-Circle, Konark, At/Po- Konark, Dist.Puri.(Orissa)

..... Applicant

By the Advocate(s)

.....

**M/s. M.R. Mohanty,
M.M.Tripathy**

Vs.

1. Union of India represented thorough its Secretary to the Govt. of India, Deptt. of Culture, At/Po-Shastri Bhawan, New Delhi-110001.
2. Director General, Archaeological, Survey of India, Nanapath, New Delhi
3. Director (Science), Archaeological Survey of India, 29-Cantonment Road, Dehradun.
4. Superintendent, Archaeological Chemist, Archaeological survey of India, Science Branch, Kedar Gouri Road, At/Po-Bhubaneswar, Dist.Khurda-2.

..... Respondent(s)

By the Advocate(s).....Mr. S.B. Jena,



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O R D E R

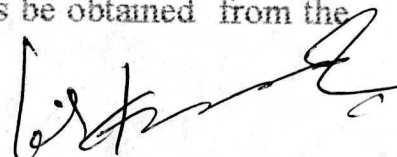
DR. K.B.S. RAJAN, MEMBER(J)

The short question involved in this case is whether the applicant who has been conferred temporary status is eligible for regularization as Group 'D' despite for lack of ~~qualification~~ ^{qualification}. The Respondents seem to be fully satisfied with the performance of the applicant and a vacancy is available but Respondents' reservation is that he does not fulfill the academic qualification for 8th pass and he is only 7th pass.

2. The applicant was initially engaged in June 1981 and has been continuously serving. He was conferred with temporary status in 01.04.2004 and thus for more than 25 years he has been in this organization. He is around 47 years now. The only deficiency in him is that he does not possess qualification of 8th pass. Had the applicant known about this requirements he could have very easily acquired this qualification under any correspondence course and even today he must be ready. Such cases, where an individual is otherwise fit to hold the post, should not be deprived of the opportunity on the ground that there is some deficiency in qualification. Balance of convenience and interest of justice are in favour of the applicant being considered for Group 'D' post with a stipulation that the same shall be provisional and the applicant shall fulfill the requirement of 8th pass within 02 years.

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3. In view of the above this O.A. is disposed of with a direction to the Respondents to take appropriate action for regularization, initially on provisional basis, of the applicant in a Group 'D' post and with a rider that the regularization as Group 'D' shall be made permanent if he acquires the qualification as 08th pass within 02 years. Necessary relaxation of Rules be obtained from the competent authority. No order as to costs.


(DR. K.B.S. RAJAN)
MEMBER(J)

K.B.