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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 714 OF 2006

Cuttack, this the ~~04th~~ Day of ~~February~~, 2008
March

Sri Ganeswar Bindhani 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?

(C.R. MOHAPATRA)
MEMBER(A)

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

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 714 OF 2006

Cuttack, this the ~~04~~⁴ Day of ~~February~~^{March}, 2008

CORAM:

HON'BLE DR. K.B.S. RAJAN, MEMBER(J)
HON'BLE SHRI C.R. MOHAPATRA, MEMBER(A)

.....

IN THE CASE OF:

Sri Ganeswar Bindhani, aged about 24 years son of Shri Dhaneswar bindhani, of Village Andiatikira, Po. Bholagadia, P.S. Khunta, Dist. Mayurbhanj.

..... **Applicant**

By the Advocate(s)

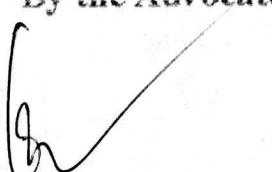
Mr. B.K. Mohanty,
M/s B.K. Praharaj,
A.R. Monahtry
D. Pattnaik

Vs.

1. Union of India represented thorough its Secretary to the Govt. of India, Ministry of Agriculture, New Delhi-110001.
2. Indian Counsel of Agricultural Research represented through its Secretary, ICAR, Krishi Bhawan, New Delhi-1.
3. Director, Central Rice Research Institute (A project under the Indian Council of Agricultural Research), At. Bidyadharpur, PO. CRRI Campus, Cuttack-6, PS. Chauliaganj, city and District-Cuttack, Orissa.
4. Senior Administrative Officer, O/O the Central Rice Research Institute, At. Bidyadharpur, PO. CRRI Campus, Cuttack-6, PS. Chauliaganj, city and District-Cuttack, Orissa.

Shri Ramudev Bishra, C/o.C.P. Murmu, Dealing Assistant, CRRI, Cuttack.
..... **Respondent(s)**

By the Advocate(s)..... **Mr. S.B. Jena,**
Mr. B.N. Mishra- R-5



O R D E R

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

The Applicant was an aspirant to the post of Mechanic (T-1) for which he had made an application in pursuance of advertisement dated 31.08.06. According to him, he possesses the requisite qualification, apart from he being a Sports' Man and also having requisite experience. He was called vide letter dated 14.09.06 for a test on 22.09.06. According to the applicant, even though he had secured the highest marks, he was not selected as Respondents had favoured one Shri Ramudev Bishra (Private Respondent No.5). Respondent No.5 has filed objection to M.A. 158/07 filed by the applicant while other Official Respondents have filed their own counter. According to the Official Respondents, the applicant had secured only 50 out of 75 marks in the skill test, while Private Respondent secured 60 out of 75 marks. Both of them have secured equal mark in the interview and thus on merit it was the Private Respondent who had secured more marks than the applicant and accordingly, he has been selected. Respondents have refuted the allegations of so called favouritism.

2. The applicant had moved Misc. Case No.158/07 for making certain amendments which was allowed.

3. At the time of initial admission vide order dated 18.10.06 the selection and appointment of Respondent No.5 as former Mechanic (T-1) was made subject to the outcome of the O.A.

4. The Applicant's Counsel has argued that where as the applicant is a Matriculate pass in one attempt, Private Respondent is in fact a Compartmental Pass candidate. The applicant has at his credit Sports Certificates and as per the advertisement preference was to be given to Sports Man. In addition the applicant has the requisite experience. Counsel for the Respondents submitted that since the performance of the applicant in the test was comparatively lower, Private Respondent has been selected.

5. Arguments were heard and documents perused. The records clearly show that the applicant's mark in the skill test is less than that of the Private Respondent No.5 and this makes the difference. The Minutes of the Meeting having made available vide Annexure-R/2, it clearly shows that where as no sports certificates were enclosed by the applicant along with application, the Private Respondent No.5 added a number of sports certificates. Of course, no marks were awarded for sports. When there is a clear difference in performance, the authority need not have given preference by taking into account the efficiency in sports. In Ser Singh Vs. Union of India 1984 SCC 107 the expression "preference has been interpreted by the Hon'ble Apex Court stating 'Signifies other things be equal one will have preference over the others'. In Secretary A.P. Public Service Commission Vs. Y.B.V.R. Srinivasulu, the Hon'ble Apex Court has held, "preference, in the context of all such condition skill/selection would only mean that other things being qualitatively and quantitatively equal those with the additional qualification have to be preferred"

[Signature]

6. The Ld. Counsel for the Applicant advanced an argument that the applicant is a 3rd Division pass Matriculate where as the Private Respondent is a Compartmental Pass. As such the applicant is treated superior to the Private Respondent. This argument is rejected since there is no specific mark for academic qualification and such academic qualification has its role to play only up to a stage of enabling or disabling the individuals to qualify for the written test. Once there is a competitive examination it is the ~~purpose~~^{result &} of such competitive examination coupled with the performance of the interview that would be the deciding factor.

7. In view of the above the applicant has not made out of the case. Consequently this O.A is rejected. No order as to costs.

~~(C.R. MOHAPATRA)~~
~~MEMBER(A)~~


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