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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NOS. 729 OF 2006

Cuttack, this the 2nd day of March 2009

Golak Bihari Behera Applicant
Vs.
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER

(K. THANKAPPAN)
JUDICIAL MEMBER

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CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
&

Hon'ble Mr. C.R. Mohapatra, Administrative Member

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Golak Bihari Behera, aged about 33 years, S/o Indramani Behera, Village-Nadakhanda, P.O.-Abhayamukhi Ramachandrapur, Dist-Puri at presently residing at Killa Fort, PO-Buxibazar, PS-Cantonment, Dist-Cuttack, a permanent resident of Vill-Kalunigoda, Po-Gandia, Dist-Dhenkanal, Orissa. **Applicant**

By the Advocate(s) M/s. Sadasiva Patra-1
S. Mishra
D.K. Mohanty

Vs.

1. Union of India, represented through its Secretary to Govt. of India, Ministry of Agriculture, New Delhi-110001.
2. Indian Council of Agricultural Research, represented by its Secretary, ICAR, Krishi Bhawan, New Delhi-110001.
3. Director, Central Rice Research Institute, At-Bidyadharpur, Po-CRRI Campus, PS-Chauliaganj, Dist-Cuttack.
4. Senior Administrative Officer, O/o. Central Rice Research Institute, At-Bidyadharpur, PO-CRRI Campus, PS-Chauliaganj, Dist-Cuttack.
5. Fakir Charan Das, Head Engineer, O/O. Central Rice Research Institute, At-Bidyadharpur, PO-CRRI Campus, PS-Chauliaganj, Dist-Cuttack.
6. Gyana Ranjan Bihari, At-Katikata, Po-Mohanpur, PS-Salipur, Dist-Cuttack.

..... **Respondent(s)**

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

O R D E R

HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER(J)

Aggrieved by his non selection to the post of Driver (T-I) in preference to Respondent No.6, the applicant has filed this Original Application and prayed that the selection of Respondent No.6 may be quashed and the applicant may be directed to be appointed. Vide Annexure-A/9 advertisement No.04/06, dated 30.08.06, recruitment to 02 posts of Driver (T-I), one reserved for S.C and one for O.B.C. was sought to be made and applications were invited in prescribed proforma from persons fulfilling the eligibility criteria and having desirable experience. The applicant applied for the said post and got an admit card and also attended the skill test and the interview. The applicant was not selected as he got less marks, both in skill test and interview, than Respondent No.6. The applicant sets up a case before this Tribunal that due to some unhappy incidents occurred during 2003 – 2004 with the then Director in connection with the selection to the same post the applicant was not given the required mark though he was qualified and experienced as per the advertisement. Further, the applicant submitted that the Selection Committee, constituted for the conduct of the trade test or skill test did not consist of expert as Respondent No.5 is not an expert he being only an Assistant Engineer in Agriculture. Hence, the selection made by the Respondents has to be quashed.

2. Resisting the above contentions both the official Respondents and the Respondent No.6 have filed their respective counters. It is stated in the counter filed by the official Respondents that the grounds urged by the applicant are not

tenable as the allegation of malafide made against Respondent No.3, the Director of the institution or Respondent No.5, one of the members of the Selection Committee, is not based on any evidence. Further, it is stated in the reply statement of the official Respondents that the above posts of Driver (T-I) have been reserved as per the direction received from the Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training and also on the basis of the reservation policy. To prove this, the official Respondent relied on Annexures-R3, R4 & R5. The official Respondents also produced the copy of the mark-sheet of (Annexure-R1), which would show the marks obtained by both the applicant and Respondent No.6.

3. It is stated in the reply statement filed by the Respondent No.6 that the allegation levelled against him that he is not having the required qualification prescribed in the advertisement is not correct. It is further stated in the reply statement that the Respondent No.6 had produced all the required documents before the authorities and after having attended the skill test and the interview, he has been selected. Further it is stated in the counter reply filed by Respondent No.6 that once the applicant appeared in the skilled test (trade test and interview), he is stopped from canvassing any arguments against the method of test or the scrutiny of the interview conducted by the Selection Committee.

4. We have heard the Ld. Counsel appearing for the parties. The Ld. Counsel for the applicant, reiterating the averments in the O.A., submitted that since the applicant had quarreled with the former Directors of the Department in



connection with the selection made during 2003- 04, the then Director influenced the Respondent No.3, Director, CRRI, Cuttack and the Selection Committee did not award him proper marks. According to the Ld. Counsel for the applicant, the selection of Respondent No.6 is not in accordance with the Rule or the procedure adopted by the Department to make such selection.

5. The Ld. Counsel for the Respondents, relying on their counters, submitted that the O.A. is devoid of merit.

6. In the light of the contentions of the Ld. Counsel appearing for the parties, the question to be decided is that whether this Tribunal will be justified in interfering in the matter. Firstly, it has to be borne in mind that the selection has been made during 2006 and as per Annexure-A/9 advertisement No.04/06, dated 30.08.06, 02 posts of Driver (T-I) were reserved for 02 different communities and it is not the case of the applicant that Respondent No.6 does not belong to any of such reserved categories. One more point to be noted is that as per Annexure-A/9 preference will be given to meritorious sportsmen though it is not a criterion for selection. The next question to be considered is that whether the applicant has succeeded to prove the alleged malafide intention of the official Respondents to avoid the selection of the applicant or not. Annexure-R/1, the mark-sheet of interview and skill test clearly indicates that the applicant has got less marks than Respondent No.6. That apart, there is no material before us to hold that the official Respondents ~~are~~ in any way acted mala fide against the applicant. Hence, on this ground alone this O.A. is found meritless. Another point to be noted is that as per the counter filed for and on behalf of the Official Respondents, an expert committee has been constituted by the Department to

make the selection. Even though the applicant has a case that the committee should comprise only of the employees of the institute, but it is not necessary to constitute the committee only with the employees or officers of the ICAR or CRRI. Apart from that, it is evident from Annexure-R/2 and the counter reply of the official Respondents that the committee has been constituted properly and the allegation that the Respondent No.5 is not an expert to evaluate the driving test is not based on any material. Making an agriculture engineer having the basic knowledge of driving vehicles as an expert for taking the driving test cannot be held to be bad because such an officer is capable enough to evaluate the skill of a candidate to be selected for the post of Driver (T-I).

7. In the light of the foregoing discussions and the findings entered above, we hold that the O.A. is devoid of any merit and is liable to be dismissed. The O.A is dismissed without any order as to costs.


(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER