

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.554/2002

Cuttack, this the 22nd day of June, 2004

CORAM:

HON'BLE SHRI R.K. UPADHYAYA, MEMBER (A)
&

HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Narendra Kumar Sahoo, aged about 49 years, S/o late Yogenath
Sahoo, At- Bania Sahi, Po. Old Town, P.S. Lingaraj, Bhubaneswar,
Dist. Khurda.....Applicant.

By the Advocate(s) Mr. P.K. Nanda.

-Vs-

1. Union of India, represented by it's Secretary, Department of Post, New Delhi.
2. Chief Post Master General, PMG Square, Bhubaneswar, Dist: Khurda.
3. Asst. Director (Recruitment), CPMG Office, Bhubaneswar, Dist. Khurda.
4. Sisir Kumar Swain S/o Rabindra Swain, At-Jhinkiri, Po. Banikul, Via-Rambagh, Dist. Cuttack. Then working as Group 'D', C/o the CPMG, Orissa, Town/PO. Bhubaneswar, Dist. Khurda.....Respondent(s)

By the advocate(s) Mr. S. B. Jena.

ORDER (ORAL)

SHRI R.K. UPADHYAYA:

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant seeking the following reliefs:

- "(i) Let there be a direction to the Respondents to give appointment to the applicant on the promotional post of Postal Assistant;
- (ii) Let there be a direction to the Respondents to cancel the appointment of Respondent No. 4 declaring his appointment as illegal.
- (iii) Let there be any other suitable directions as this Hon'ble Tribunal as deemed fit and proper.

2. It is stated by the applicant that he is working as Group 'D' official. He appeared in the examination for departmental promotion to the post of Postal Assistant on 11.2.2001. The claim of the learned counsel for the applicant is that the applicant had been declared as unsuccessful in the said examination. He stated that the applicant secured 33 marks in Paper-I, 0 (zero) in Paper-II and 47 marks in Paper-III. According to the learned counsel for the applicant, the applicant is a matriculate. He could not be given 0 (zero) marks in Paper-II which relates to Arithmetic. If proper valuation of the ^{or} ~~marks~~ answer book could have been made, he should have been declared successful. Therefore, he has claimed reliefs in this O.A. as stated above.

C. B. Singh

3. The official respondents have filed a reply and have opposed the prayer of the applicant. It is stated by the applicant that in compliance to the Notification for the examination to be held on 11.2.2001, 14 candidates, including the applicant appeared in the lower grade official examination. Though there was some delay in publication of the result, but the same was declared on 11.2.2002. Subsequent clarification from Directorate on 24.5.2002 also confirmed the view taken before the declaration of the result. It is further stated that even though there were 5 vacancies, 4 for general category and 1 for scheduled caste, only 1 candidate was declared as successful as per Memo dated 11.2.2002. No other candidate, including the applicant was declared successful. The learned counsel for the respondents stated that the applicant having appeared in the examination and having failed could not challenge the examination as such. It was further stated that only one person, i.e. Respondent No. 4 was found eligible to have been declared successful and he has accordingly been declared successful in the examination. He has also subsequently been offered the post of Postal Assistant. The learned counsel stated that this Original Application being without any merits should be dismissed.

Umeshwar

4. We have heard the learned counsel of the parties and have perused the material available on record. We find that the applicant appeared in the examination. He has secured not/very high marks in Paper-I and Paper-III but has secured only 0 (zero) marks in the Paper-II. There is no *prima facie* case made out that the respondents have not followed the proper procedure in conducting the examination. The mere fact that as many as 14 candidates appeared in the examination and only one has been declared successful shows that the applicant along with 13 similarly placed persons have not been found eligible to have been declared successful. There were 5 vacancies and the Department could have been keen to promote as many as persons possible if the applicant and other similarly placed persons were meritorious in their performance. These unfilled vacancies of 20% promotional quota are to be transferred to the direct recruitment quota vacancies. Therefore, the Department was ultimately a loser inasmuch as the respondents were to wait for direct recruitment candidates to join. The request of the learned counsel of the applicant for calling of the answer books is without any basis. We do not find sufficient reasons to call for the same. There is every possibility that the applicant could get 0 (zero) marks if all his arithmetical answers were wrong. We do not find any justification to interfere in the action of the Departmental authorities.

Ch. B. Sengar

5. In view of the facts stated above, this O.A. lacks merit. The same is dismissed without any order as to costs.

~~22/06/04~~
(M.R. MOHANTY)
MEMBER (JUDL.)

~~22/06/04~~
(R.K. UPADHYAYA)
MEMBER (ADMN.)

'SRD'