

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 800 OF 2002
Cuttack, this the 07th day of October, 2004

MADHUSUDAN MOHANTY.

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APPLICANT.

:VRS.:

UNION OF INDIA & ORS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *yes*

Ind
(B.N. SOM)
Vice-Chairman

Ind
(M. R. MOHANTY) 07/10/04
Member (Judicial)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO. 800 OF 2002
Cuttack, this the 07th day of October, 2004

C O R A M

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN
and
THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDL.)

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MADHUSUDAN MOHANTY,
Aged about 31 years,
S/o. Digambar Mohanty,
Plot No. 240/99-100 (Rath Colony),
Lane No. 5, At/Po: Aerodrom Area,
Bhubaneswar, Dist. Khurda.

..... **Applicant.**

By legal practitioner: M/s. Siba Narayan Panda,
Dillip Kumar Mohapatra,
Arun Kumar Sahoo,
Advocates.

;Vrs.:

1. Union of India,
represented through its Secretary,
Ministry of Health, Nirman Bhawan,
NEW DELHI-11.

2. Director General,
Indian Council of Medical Research,
Ansari Nagar, NEW DELHI-29.

3. Director,
Regional Medical Research Centre,
PO: Chandrasekharpur,
Bhubaneswar-16,
DIST. KHURDA

4. Sri Pandab Sahoo,
S/o. Madan Mohan Sahoo
Vill. Kaimatia,
Po: Brajamohanpur,
Via: Narangarh,
DIST. KHURDA.

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Respondents.

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By legal practitioner: M/s. M. Mishra,
D. K. Patnaik,
J. J. Panda, Adv.,
(Res. Nos. 1, 2 and 3)

Mr. Subrata Mishra, Advocate
(for Respondent No. 4)

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):-

Applicant, Madhusudan Mohanty, assailing the appointment of Respondent No. 4 (Shri Pandab Sahoo) as Animal House Attendant in the Regional Medical Research Centre, Bhubaneswar has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 on two grounds such as:-

- i) Respondent No. 4 is not eligible to be considered being over-aged;
- ii) He being an employee working as a Peon-cum-Safaiwala with a salary in an extramural project; he is not entitled for condonation of age as per the rules;

2. Respondents by filing counter, have enumerated that for filling up of the post of Animal House Attendant in Gr. D Category (apart from asking the employment exchange at Bhubaneswar to sponsor names of eligible candidates) notification was also made inviting applications from eligible Departmental Candidates as well as retrenched Ex-project employees of extramural Projects of RMRC, Bhubaneswar vide letter dated 11-01-2002 and dated 21.1.2002 to avoid any future legal complications. This invitation of

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applications from the ex-retrenched Project employees was done because of various agreement reached by the Respondent No.3 before the Assistant Labour Commissioner, Government of India, Bhubaneswar to the effect that their cases will be considered in future vacancies; by allowing necessary age relaxation as per the Rules and Regulations; if they are otherwise eligible. Since in the selection process, the Respondent No.4 was found more meritorious (taking into consideration his past experience) by allowing the age relaxation, he was selected and appointed to the post in question. It has been clarified by the Respondents that though the Respondent No.4 had worked in the projects but during that period he also worked as Field Attendant. Sometimes, he was directed to work as Animal House Attendant as per the instructions of the Project Instructor. The Respondents have also elaborately mentioned the reason as to why the age relaxation was given to the Respondent No.4. It has further been stated by the Respondents that rules in this regard ~~lays~~ has been followed and there being nothing wrong in the selection and appointment of the Respondent No.4 to the post in question, the Respondents have prayed for dismissal of this Original Application.

3. We have heard learned counsel for both sides and perused the materials placed on record.

4. Learned Counsel for the Applicant, through his rejoinder, has also produced ~~the~~ the Indian Council of Medical Research Rules (with regard to recruitment/promotion to various technical cadre staff of the Council) and we have gone

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through the same.

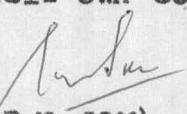
5. Learned Counsel for the Applicant, during his submission, has stated that since rule does not prescribe for giving any age relaxation to the project employees, by allowing the age relaxation an ineligible candidate has been made eligible for ulterior motive.

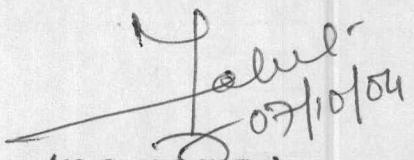
6. We have gone through the rules vividly and we have found that in para-6 of the said rules power of relaxation (of any of the clauses embedded in the rules) has been vested with the Authorities. The Respondents Department have also mentioned the reasons as to why they have allowed the age relaxation to the Respondent No. 4. Applicant, apart from the point of age relaxation, has not stated anything pertaining to eligibility or lack of qualification etc. Nor alleged any favouritism for any ulterior motive. Applicant has stated that though he has well done/he could not be selected. It is a common knowledge that unsuccessful candidates always feel aggrieved by the selection of others. It is not good to assess the own caliber in a matter of selection especially when he/she has been found inferior ^{to} than other. Law is also well settled that a retrenched casual worker is entitled to be considered for a regular appointment by counting his experience and he is also entitled to be given the age relaxation to the extent of his casual work period.

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7. In the above said premises, we find no illegality or irregularity in the matter of selection and appointment of Respondent No. 4. Therefore, this O.A. is dismissed being devoid of any merit. Parties to bear their own costs.


(B.N. SOM)
Vice-Chairman


(M. R. MOHANTY)
Member (Judl.)