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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 821 of 2002  
Cuttack, this the 23<sup>rd</sup> day of Dec. / 2004

Gandaram Pradhan

.... Applicant

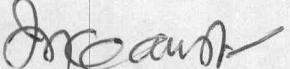
-VERSUS-

Union of India

.... Respondents

FOR INSTRUCTIONS

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

  
(J.K. KAUSHIK)

JUDICIAL MEMBER

  
( B.N. SOM )  
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.821 of 2002  
CUTTACK, this the 23<sup>rd</sup> day of Dec/ 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN  
AND  
HON'BLE SHRI J.K. KAUSHIK, JUDICIAL MEMBER

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Gandaram Pradhan, 39 years s/o Samara Pradhan Marsingh  
via Deogaon, Dist, Bolangir at present serving as GDSSROK.,  
Dn., Bolangir.

... applicant

Advocates for the applicant

... M/s. A.K.Mishra,  
J.Sengupta,  
D.R.J.Dash,  
D.K.Panda &  
G.Singh.

versus-

1. Union of India represented through Director General of Posts, New Delhi.
2. Chief Postmaster General, Orissa, Bhubaneswar,
3. Superintendent, R.M.S.K.Division, Kharsuguda.

.... Respondents

Advocates for the Respondents

.... Mr.U.B.Mohapatra,  
Ld.Sr.Standing Counsel

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ORDER

SHRI B.N.SQM, VICE-CHAIRMAN

Shri Gandaram Pradhani has filed this O.A. being aggrieved by the order dt. 6.8.02 at Annexure-3 passed by Respondent No.3 cancelling the result of Mail Guard Examination held on 25.3.01 for the year 2000 notified by his office letter dt. 1.2.02.

2. He has under the circumstances approached the Tribunal with a prayer to quash the impugned order at Annexure-3 and to direct the opposite parties particularly Respondent No.2 to consider his case for appointment as Postman/Mail Guard in any division under the administrative control of Respondent No.2 and also to direct the Respondents to pay him all his dues retrospectively.

3. The undisputed facts of the case are that Respondent No.3 by a notification dated 11.1.01 had held a departmental promotion examination on 25.3.01 for promotion of Group-D and EDAs to Postman/Mail Guard cadres for the vacancies of the year of 2000. The applicant who was working as ED Mail Man in RMS Division in response to the above notification, participated in that examination and in due course he was declared successful in the said examination under outsider quota by the order issued by Respondent No.2 on 1.2.02, at Annexure-2. But after sometime without stating any reason, the same Respondent cancelled the result of the said examination held on 25.3.01. The applicant has contended that the action of the Respondents in cancelling the result of the examination was without any basis as there were vacancies available in other RMS units and in case no such vacancy was available, he

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could have been absorbed in any vacancy in a Postal Division as a Postman.

4. The Respondents have opposed the contention of the applicant on the ground that there ~~were~~<sup>was</sup> no vacancy available in other Division, that there was no short-fall vacancy available under outsider quota in any other RMS Division. It was on this ground that the list of successful candidates which was drawn up and circulated to the units by Respondent No.3 was cancelled. They have also argued that the applicant appeared for promotion to the grade of Mail Guard with the clear understanding that he could be absorbed in other division only against a short-fall vacancy. They have also argued that the merit list being clearly an official correspondence between the Respondent No.3 and his Sub-ordinate units for its cancellation, the Respondent No.3 was not obliged to issue any notice to any one as claimed by the applicant. They have also argued that the Respondent No.3 had right to cancel the order as it required modification in the circumstances of the case. They have also denied that he could have been absorbed in the cadre of postman in a Postal Division on the ground that such a practice was prevalent in the circle.

5. We have heard the Ld. Counsel for both the parties and have perused the records placed before us.

6. In this O.A. the controversy has been raged on two counts. It is the case of the applicant that although there was no vacancy under outsider quota in his parent division i.e. R.M.S. K.Division, there was vacancy available in other RMS Divisions in the Circle to accommodate him. And, secondly, that in case there were no vacancies available

in RMS Divisions, he could have been considered against short-fall vacancies in the Postal Division. From the reply filed by the Respondents in their counter and also the submissions made during the oral argument it has been reiterated that there were no vacancies available under the outsider quota in any of the RMS Divisions in this Circle. But with regard to the second point raised by the applicant, the Respondents repeatedly denied that under the Rules, the applicant was entitled to consideration for promotion against the short-fall vacancies in Postal Divisions also. To resolve this controversy, we have referred to the recruitment rules for the post of Postman/village postman/Mail Guard, Recruitment Rules 1989 circulated by the Respondent No.2 vide his letter dated 26.7.89. In this connection reference was made to the provision made under column 11 of the SCHEDULE to the Recruitment Rules which provides as follows, for recruitment for the post of Mail Guard.

"If the vacancies remained unfilled by Extra Departmental Agents of the recruiting division, such vacancies may be filled by Extra Departmental Agents of the postal division falling in the zone of Regional Directors." (Emphasis supplied)

In terms of the said provision as made under Item '3' under Column 11 as quoted above, the vacancies remaining un-filled by EDAs of the recruiting division may be filled up by EDA's of the Postal Division existing in the zone of concerned Regional Director. The Lt. Counsel for the petitioner canvased before us that by virtue of this provision, the applicant was entitled to be considered against the short-fall vacancies in Postal Divisions, if there was no vacancy available in any of the RMS Divisions. However, on a careful reading of the provision made under Item '3' as quoted above, we are unable

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in the recruitment rule<sup>s</sup> to accept the contention of the applicant. The provision is that short-fall vacancies of the division can be filled up by the EDA's of the Postal Division and the Rule does not say that the shortfall vacancies in a recruiting division can be filled up by EDA's of the RMS Divisions. As the Rule only extends provision for absorption by EDAs of the postal division in any recruiting division where the short-fall exists, we do not see any infirmity in the contention of the Respondents that the EDA belonging to the RMS division are not eligible to be absorbed in postal division. That being the rule position, we hold that the prayer of the applicant that he should be considered for appointment as postman in any postal cadre against a shortfall vacancy under outsider quota is not tenable. We, however, agree that the action of the Respondent No.3 in cancelling the result of the examination was devoid of reason as the result of the examination can only be invalidated only on ground of any irregularity.

7. In the aforesaid premises the impugned order at Annexure-3 is hereby quashed being without jurisdiction. O.A. is accordingly disposed of with the above observation. No costs.

J.K. KAUSHIK  
( J.K. KAUSHIK )  
MEMBER (JUDICIAL)

B.N. SINGH  
( B.N. SINGH )  
VICE-CHAIRMAN