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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH
CUTTACK

O.A. 1017/2002

Date of order: 27.05.2004

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. H.P. Das, Administrative Member.

Abhimanyu Lenka.

-versus-

Union of India and Ors.

For the applicants : None.

For the respondents : Mr. R.C. Rath, counsel.

O R D E R

Per Justice B. Panigrahi, VC

None has appeared on behalf of the applicant on call. However, Mr. Rath, 1d. counsel appearing for the respondents is present. After hearing him and on going through the records, we are of the opinion that the matter can be disposed of even in the absence of the applicant. Accordingly, we proceed to do so.

2. In this case the applicant has prayed for a direction to the respondents to allow him to appear in the examination for filling-up posts of Junior Clerk against 33.1/3% departmental promotional quota along with the candidates vide Annexure-5. A further direction has also been sought to regularise the service of the applicant as Junior Clerk in the event of his success in the departmental examination.

3. From the fact situation, as narrated in this application it has emerged that the applicant entered into the service as a Khalasi Helper under S.E. Railway on 27.8.1982. He joined at

Mancheswar, Carriage Repair Workshop on 4.4.1984. In course of his employment he was promoted to the post of Fitter Grade-III on 1.1.1988. It is true that the applicant's services were utilised for quite sometime for various clerical job in the ministerial post in the Bill Section. He was again transferred from Bill Section to Mechanical Department. The applicant has claimed to have been eligible for promotion to Gr. C ministerial cadre against 33.1/3% departmental promotional quota. But since his prayer was not considered by the respondents, therefore, he has filed this case for appropriate direction.

4. Mr. Rath, 1d. counsel appearing for the respondents has invited our attention that the applicant has already been promoted from Khalasi to Fitter Gr. III which is a Gr. C post. Therefore, there is no question of any promotion from one Gr.C post to another Gr. C post. But in certain administrative exigency there can be intra-departmental transfer to utilise his services. It is further pointed out that the applicant did not possess the minimum qualification of matriculation so that he could have been considered for the ministerial post.

5. Since the applicant did not possess minimum educational qualification of matriculation, therefore, he cannot be accommodated in a ministerial post neither he is eligible to appear at the departmental examination as claimed, since he is already a regular Gr. C employee in technical side, and not a Gr.D staff for whom the examination was being held. But of course, in case of departmental

exigency, the respondents can utilise his services, if his services are otherwise essential, but that by itself does not provide him a right to claim for being posted in any ministerial post. Accordingly, we do not find any merit in this application.

6. In the result, the application is dismissed. But, however, it is open to the respondents, looking into the past experience of the applicant, to consider his case for being posted in any ministerial post on account of administrative exigency, if permissible under the rules. No costs.

H. I. D.

Member (A)

B. B. T. R. W.
Vice-Chairman.