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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 01 of 2003
Cuttack, this the day of *28th* *June*, 2005

Supervisors Association
Indian Ordnance Factory

.....

Applicant

Vs

Union of India & Others

.....

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*

[Signature]
22/06/05
(M.R. MOHANTY)
MEMBER (JUDICIAL)

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM :

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

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

.....

Supervisors Association, Indian Ordnance Factories, Badmal Branch, At/P.O.-Badmal, Dist. Bolangir, represented by Secretary Jagadish Chandra Hota, aged about 36 years, S/o. Pitambar Hota, Supervisor (Store Section) Ordnance Factory, Badmal, At/P.O.-Badmal, Dist. Balangir.

..... Applicant

By the Advocates

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M/s. D.P.Dhal, G.B.Jena,
B.B.Mishra,
K.Dash.

VERSUS

1. Union of India, represented through Secretary, Ministry of Defence, New Delhi.
2. Director General/Chairman, Ordnance Factories, Ordnance Factories Board, 10-A, S.K.Bose Road, Kolkata, West Bengal.
3. General Manager, Ordnance Factory, Badmal, At/P.O.-Badmal, Dist-Bolangir.

..... Respondents

By the Advocate

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Mr. U.B.Mohapatra (Sr.Sc).

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O R D E R

SHRI B.N.SOM/ VICE-CHAIRMAN:

This O.A. has been filed by Supervisors Association, Indian Ordnance Factory, assailing the decision of the Respondents to conduct a limited departmental competitive examination for filling up vacancies in the post of Charge-man (Technical and Non-technical) in terms of S.R.O. 191, dated 28.11.94. This application has been filed under Section 19 of the Administrative Tribunals Act, 1985.

2. The Respondents have raised preliminary objection regarding the locus standi of the applicant to approach this Tribunal seeking redressal of its grievances. It is, therefore, necessary to examine the objection with reference to the Rules governing the procedure for filing applications in terms of the Central Administrative Tribunals (Procedure) Rules, 1987. We are guided by the provision of Rule 4 of the said Rules. By virtue of sub-rule-5 of Rule 4, the Tribunal may permit more than one person to join together and file a single application having regard to the cause of action and the nature of relief prayed for. But, they must have a common interest in the matter. The applicant Association has claimed that it represents the Supervisors (Stores) and it is fighting for the cause of all Supervisors. Prima facie, therefore, it appears that the applicant Association is espousing the common cause of the Supervisors (Stores) who are aspirant for getting promotion to the posts of Charge-man (Store). However, while deciding the matter, it is necessary

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to refer to the provision of sub-rule-5 (b) of Rule-4 of Procedure Rules, 1987 which reads as under:

"(b) Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of persons on whose behalf it has been filed (provided that at least one affected person joins such an application)."

From the application, however, we find that though it has been disclosed that the applicant-Supervisors Association, represents the Supervisors belonging to Store Section of Badmal Ordnance Factory, no individual supervisor i.e., no affected person, however, has joined in such an application.

In the circumstances, the application became untenable in terms of sub-rule-5 (b) of Rule-4 which has been quoted above. in para 2 above

We have earlier mentioned that the Respondents have taken objection to the application on the ground that the Applicant Association does not have any locus standi. However, in the matter of admission of application the Tribunal has to satisfy itself if the permission is to be granted or not. In this connection, we are bound by the decision of the Full Bench of PB, New Delhi in O.A.No.351/03 with O.A.No. 2770/03 and O.A.No.1845/04 (decided on 9.9.94) when it was held as follows:

"..... when such an application is filed, basically, it is a matter between the applicant and the Tribunal to consider whether the application has to be allowed or not. The Respondents can only object if any of their rights are affected in this regard. Granting of such permission in normal circumstances unless contrary is shown in the facts of a particular case, will not affect the rights of the Respondents."

3. In the instant case, permitting the application

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is not going to affect any of the rights of the Respondents because the controversy raised in the application is whether limited departmental competitive examination should be allowed in the interest of the organization/officials. So the said objection is overruled. None-the-less, this application fails if not on the ground of the objection raised by the Respondents but because of the fact that it has not been filed complying with the requirement of subrule 5 (b) of Rule-4, i.e., no individual affected by the order at Annexure-3 has joined in this application. We order accordingly.

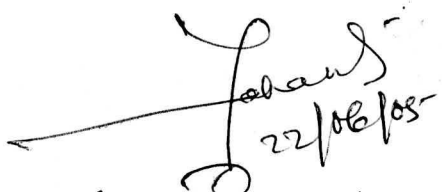
4. Before we close, we feel it necessary to make a few observations in the interest of the parties concerned.

5. The grievance of the applicant Association, we find, has arisen from the inadequate understanding of the mode of recruitment through limited departmental examination. It is necessary to understand that recruitment through limited departmental examination is, ifso facto, a method of promotion. In the case of normal promotion system, promotion is granted by assessing the performance reports of the individuals in a zone of consideration by convening a DPC and in limited departmental examination, the zone of consideration is thrown wider and the promotion is given on the basis of the merit in the examination. Non-the-less, at the end the upward movement of an official takes place only by way of promotion. In the circumstances, by amending the Recruitment Rules in the year 1994, the

Respondent Department has infact increased the quota of promotion. Earlier, the posts of Chargeman were to be filled up 66.66% by direct recruitment and 33-1/3% by promotion. But the same was revised to be filled up 50% by promotion through DPC method, another 25% promotion through the means of limited departmental examination and only 25% by direct recruitment. Thus, the department has enhanced the career prospects of the serving employees to 75% by introducing an element of merit. We feel that it is because of lack of proper counselling or lack of proper communication between the management and the service Association that the beneficial amendment of the Recruitment Rules in the year 1994 remained unclear to the concerned employees leading to litigation. We also note that the Respondents have stated in the counter that they do not propose to grant promotion through limited departmental examination till some more posts have been filled up through normal DPC mode. This decision needs to be relooked in the light of the observation that we have made earlier. Any such action is going to convey a wrong signal and erase for ever the beneficial nature of the amendment of the Recruitment Rules made in 1994. Infact we feel that decision to withhold the implementation of the result of the limited departmental examination will be counterproductive to the purpose of the management. Last but not the least, the Recruitment Rules having the force of statute should not be tinkered with on any pragmatic or unreasonable consideration.

Such an action will erode organizational credibility and will lead to demotivation among the sincere workers.

6. This O.A. is accordingly dismissed with the above observations. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

KUMAR