

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 144 of 2007

Cuttack, this the 11th day of March,, 2011

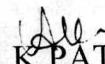
P.Viswanadham Applicant


-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? X
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? X


(A.K.PATNAIK)
Member(Judl)


(C. R. MOHAPATRA)
Member (Admn.)

CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Shri P.Viswanadham, aged about 53 years, Son of P.Srinivasam, at present working as Chief Health Inspector, Gr.I, under Assistant Divisional Medical Officer, East Coast Railway, Bhadrak, Health Unit Bhadrak, At/Po.Charampa, Dist. Bhadrak.

.....Applicant

By legal practitioner: M/s.B.S.Tripathy, M.K.Rath, J.Pati, Counsel.

-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar, Dist. Khurda.
3. The Chief Medical Director, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. The Divisional Railway Manager (P), East Coast Railway, Khurda Road, At/Po.Jatni, Dist. Khurda.
5. The Deputy Chief Personnel Officer, East Coast Railway, Head Quarter-I, Bhubaneswar, Dist. Khurda.
6. Shri A.Bhaskar Rao, presently working as Chief Health Inspector, Grade-II, under the Station Manager, East Coast Railway, Bhubaneswar, Dist. Khurda.

....Respondents

By legal practitioner: Mr.D.K.Behera,ASC

ORDER


MR. C.R.MOHAPATRA, MEMBER (ADMN.):

In this Original Application the applicant challenges the seniority list showing the name of Respondent No.6 above him as also declaring him failed in the selection conducted by the Respondents for promotion from Group C to Group B.


2. In the counter the Respondents have stated that inadvertently the name of the Respondent No.6 was shown above the Applicant. However, on consideration of the representation, the position of the applicant in the provisional seniority list was revised placing the name of the applicant above the Respondent No.6. Copy of the seniority list dated 31.1.2007 has been placed by the Respondents at Annexure-R/3. In so far as promotion of the applicant to the Group B post is concerned it has been stated by the Respondents that one has to secure the pass mark of 90 out of 150. On the basis of the representation after revision of the seniority position of the applicant he was allowed to appear at the written examination held on 04-02-2007. But the applicant failed to secure the pass mark. Hence he was not called to appear at the viva voce test. In regard to the submission of the applicant that out of two vacancies one vacancy should have been kept for reserve candidate, it was pointed out by the Respondents that in terms of RBE No. 114/1997, these two posts of Assistant Health Officer/Group B in Medical Department of ECoR are meant for UR candidates. Accordingly, while opposing the stand of the Applicant, the Respondents prayed for dismissal of this OA.


3. No rejoinder has been filed by the Applicant despite receipt of counter filed by the Respondents.

4. Heard the rival submission of the parties and perused the materials placed on record.



13
5. The prayer of the applicant in this OA is to direct the Respondents to refix seniority of the applicant above the Respondent No.6 and to quash the entire process of selection to the post of Assistant Health Officer/ Group B. The first prayer of the Applicant has been met. In so far as the second prayer is concerned, it is seen that the applicant after becoming unsuccessful in the examination has approached this Tribunal for quashing of the entire process of selection without making all the candidates selected as party Respondents to this OA. Besides, the above, law is well settled in a plethora of judicial pronouncements that having appeared and failed in the selection the candidates are estopped under law to challenge the process of selection or the manner of conducting the examination. Since the applicant is one such candidate (he having appeared at the selection and failed), he is not entitled to the second relief claimed by him in this OA. Hence this OA being devoid of any merit is dismissed by leaving the parties to bear their own costs.


(A.K.PATNAIK)
Member(Judl)


(C. R. MOHAPATRA)
Member (Admn.)