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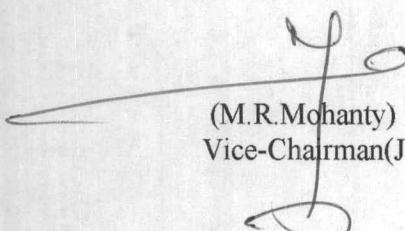
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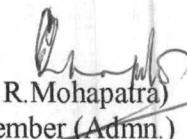
**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

O.A.No. 267 of 2007
Cuttack, this the 21st day of September, 2010

Ashok Kumar Rout Applicant
Versus
Union of India & Ors. Respondents

1. Whether it be referred to the reporters or not? *no*
2. Whether it be circulated to all the Benches of the Tribunal? *yes*


(M.R. Mohanty)
Vice-Chairman(J)


(C.R. Mohapatra)
Member (Admn.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A. No.267 of 2007
Cuttack, this the 21st day of September, 2010

C O R A M
THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN (J)
AND
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Shri Ashok Kumar Rout, Aged about 46 years, son of Sri Raghunath Rout, working as Junior Engineer Gr.I/TRS at Khurda Road under the Senior Divisional Electrical Engineer (OP), ECoRailway, Khurda Road residing at C/o.Mr.Chowdhury, Gandhinagar, PO. Jatni, Dist. Khurda, PIN -752 050.

.... Applicant

By legal practitioner: M/s.A.Das, D.K.Mohanty, Counsel

-Versus-

1. Union of India represented through General Manager, ECoRly, Rail Vihar, Chandrasekharpur, Bhubaneswar.
2. The Chief Personnel Officer, ECoRailway, Rail Vihar, Chandrasekharpur, Bhubaneswar, PIN 751 023.
3. The Senior Divisional Electrical Engineer (OP), ECoRailway, Khurda Road, Po.Jatni,, Dist. Khurda, PIN 752 050.
4. The Senior Divisional Personnel Officer, ECoRailway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752050.
5. Divisional Railway Manager (Personnel), S.E.Railway, Kharagpur, Dist. Midnapur.
6. Sri Sudhir Chandra Routra, Section Engineer/Traction/Khurda Road, SE/TRS/KUR near Parcel Office, Platform No.3 Khurda Road, Railway Station, PO. Jatni, Dist. Khurda, PIN 752 050.
7. Sri Jogeswar Sabat, Section Engineer/Traction, SE/TRS, Office of Sr. DEE (OP)/KUR, DRM, KUR's Building, PO. Jatni, Dist. Khurda, PIN 752 050.

.... Respondents

By legal practitioner: Ms.S.L.Patnaik, Counsel.

O R D E R

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

The prayer of the Applicant in this Original Application filed under section 19 of the A.T. Act, 1985 is to produce the selection proceedings conducted in response to the Memorandum dated 23.2.2007 (Annexure-A/12) and to quash and set aside the letter No.P/Elect (OP)/04/2007 dated 09.05.2007 (Annexure-A/13) and the letter No.P/Elect (OP)/Promotin/JE-I/2006 dated 26.12.2006 issued by the Senior Divisional Personnel Officer,

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ECoRly, Khurda Road under Annexure-A/10. For deciding the matter, it would suffice to state that on transfer from Kharagpur Division to Khurda Road Division in administrative interest, Applicant's lien was maintained at the latter Division. While the Applicant was continuing in Khurda Division, in administrative interest pursuant to option called for by the Khurda Division in regard to Lien, applicant along with others applied discontinuance of his lien from his parent Unit for maintaining his Lien at Khurda Division. On receipt of options from the employees, including applicant, the Khurda Division took up the matter with Kharagpur Division and had sought for administrative approval. After making protracted correspondence, finally the Senior Divisional Electrical Engineer (O.P), Kharapur vide his letter dated 03.08.2004 (Annexure-R/5) had conveyed 'no objection' for suspension of Lien from KGP Division. In spite of cessation of Lien from KGP Division, he was inadvertently called by the Kharagpur Division to appear at the test for promotion to JE I and upon being successful in the test, he was promoted vide order dated 26.10.2004 of the DRM (P), Kharagpur and consequently he was posted under Sr. Divisional Electrical Engineer (TRS) TPKR of Kharagpur Division vide Annexure-A/4. But he could not be released to Kharagpur Division to effect his promotion order as the Lien of the applicant had already been suspended with effect from 31.08.2004 from KGP Division. Applicant did not accept the cessation of his lien from Kharagpur Division with effect from 31.08.2004 as according to him there is no material placed by the Respondents in support of cessation of the Lien of the Applicant pursuant to the order dated 03.08.20004 (Annexure-R/5). It is his contention that this letter dated 03.08.2004 is merely an internal correspondence conveying the 'no objection' for suspension of the lien of Applicant from KGP Division. This letter conveying 'no objection' cannot be effective unless it is duly accepted

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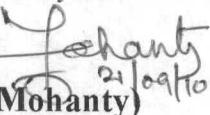
by the Khurda Division by bringing it to the notice of the Applicant and other similarly situated persons. Further stand of the Applicant is that even conceding for a moment that the Lien of the Applicant was suspended with effect from 03.08.2004, the Respondents (Khurda Division) ought not to have effected the promotion of the Applicant based on the result of the test published by his parent Unit along with two others of the Khurda Division who are declared pass in a test conducted by the Khurda Division. Even if it is held to be correct, then the applicant having been successful in the test much earlier and his counter part employees having been given benefits with effect from 03.08.2004, his name ought to have been shown above Respondent No.6 and 7. By showing the name of Applicant below the Respondent No.6, they have not only made the unequal becoming equal but also committed grave injustice to the Applicant. He also branded that the action of the Respondents smacks *mala fide*.

2. Be that as it may, it has not been disputed by the Applicant that pursuant to Annexure-A/12 the Sr.DPO Khurda Division conducted the selection for the post of Section Engineer in which respondent nos. 6 & 7 along with the applicant appeared at the written test. But the Applicant could not be empanelled for the post of Section Engineer as he has not qualified in the said written test whereas the Respondent Nos. 6 & 7 became successful. As the Applicant could not come out successful in the written test, there was no scope for empanelment of the applicant for promotion to the post of Section Engineer.

3. After considering the rival submission of the parties on the above aspects and upon perusal of the records we are confirmed that the applicant failed in the written test conducted for selection to the post of Section Engineer. Hence, he has no claim to be promoted to the same post.

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Thus, this Original Application fails. Accordingly, this OA is dismissed being devoid of any merit. No costs.


(M.R. Mohanty)
Vice-Chairman(J)


(C.R. Mohapatra)
Member(Admn.)