

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 347 of 2007
Cuttack, this the 24th day of May, 2009

Pradeep Kumar Paikaraya Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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

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JUSTICE K.THANKAPPAN
MEMBER (JUDICIAL)

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(C.R.MOHAPATRA)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 347 of 2007
Cuttack, this the 21st day of May, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

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

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Pradeep Kumar Paikaraya, aged about 27 years, S/o.Biranchi
Narayan Paikaraya, At-Serabada, PO-Pichukuli, Dist. Khurda.

.....Applicant

Advocate for Applicant: M/s.Debendra Dhar, B.Senapati.

-Vs-

1. Union of India represented by its General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Personnel Officer, E.C.Rail, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda-751 025.
3. The Divisional Railway Manager, East Coast Railway, Khurda Road, PO. Jatni, Dist.Kurda-752 050.
4. Deputy Chief Personnel Officer (Recruitment) Railway Recruitment Cell, E.C.Railway, Headquarter, C/57/9, Rail Vihar, At/PO. Chandrasekharpur, Bhubaneswar, Dist. Khurda.

....Respondents

Advocate for Respondents: Ms. T.Rath.

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

Under Annexure-2, advertisement was published in the Employment News for recruitment of Group D personnel in the East Coast Railway. Applicant was one of the candidates pursuant to the aforesaid notice. But his candidature was rejected under Annexure-3 on the ground, as it reveals that he failed to furnish two proper marks of physical identification in the application submitted by him. Being aggrieved by such decision, the Applicant has approached this Tribunal in the present Original Application filed U/s.19 of the A.T. Act, 1985 seeking quashing of the order of rejection under Annexure-3.

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2. While issuing notice, in order dated 27.09.2007, this Tribunal as an interim measure directed the Respondents to allow the applicant to participate in the process of selection provisionally but his result shall be kept in sealed cover and submit the same to this Tribunal.

3. Respondents by filing counter have opposed the stand of the Applicant by stating that furnishing of two identification marks in the application is a precondition stipulated at clause 15 of the advertisement. This was sought to be furnished by the department in order to avoid any impersonation either during interview or thereafter. Another condition was also put in the advertisement that incomplete application shall summarily be rejected. As the applicant did not furnish the same, on scrutiny his application was rejected and intimated to the applicant along with others through web site. Accordingly, they have opposed the prayer of the Applicant.

4. Heard rival submission of the parties and perused the materials placed on record. It is seen that furnishing of two identification mark was a condition stipulated in the advertisement. Law is well settled in the case of *Ashok Kumar Sharma and others v Chander Shekhar and Another*, 1997 (4) SCC 19 that conditions stipulated in the advertisement have to be adhered to in letter and spirit and there should be no deviation for any individual. It is the stand of the Applicant's counsel that his client has furnished the identification marks but has not been able to substantiate by producing documentary evidence in support thereof. However, it has been stated by Learned Counsel for the Respondents that the applicant has failed in the selection/test. Rejection of application for lack of fulfillment of the conditions stipulated in the

advertisement has been upheld by the Hon'ble Apex Court in very many cases in past. It is also logical because unless application is scrutinized it would be practically difficult for the administration to conduct the selection by calling upon the huge number of candidates for a few numbers of vacancies. In view of the above, we find no infirmity in the decision of the railway administration.

5. In view of the above, we find no merit in this OA which is accordingly dismissed. No costs.

K.T.KAPPAN
(JUSTICE K.THANKAPPAN)

MEMBER (JUDICIAL)

C.R.MOHAPATRA
(C.R.MOHAPATRA)
MEMBER (ADMN.)