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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NOS.253 254 OF 2008

Cuttack this the Thursday of April, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
IN O.A.NO.253/2008

Jeetendra Kumar Senapati, aged about 41 years, S/o. late Mahendra Senapati, at present working in the Office of the General Manager, Ordnance Factory, Badmal, At/PO-Badmal, Dist-Bolangir, permanent resident of Village-Baniadiha, PO-Langaleswar, Dist-Balasore

...Applicant

By the Advocates: M/s. Ganeswar Rath, S.N. Mishra, T.K. Praharaj & S. Rath

-VERSUS-

1. Union of India represented through the Secretary, Ministry of Defence Production and Supply, New Delhi
2. Chairman, Ordnance Factory Board, Ayudh Bhawan, 10A, Khudaram Bose Road, Kolkata-700 001
3. General manager, Ordnance Factory, Badmal-76770, Dist-Bolangir
4. Santosh Kr. Nayak, aged about 44 years, S/o. Gangadhar Nayak, presently working as Electrician, High Skilled, Ordnance Factory, At/PO-Badmal, PO-Saintala, Dist-Bolangir
5. Keshari Mohapatra, aged about 44 years, S/o. late Dibakar Mohapatra, Master Craftsman, Ordnance Factory, At/PO-Badmal, PO-Saintala, Dist-Bolangir

...Respondents

By the Advocates: Mr. U.B. Mohapatra, SSC

M/s. S.K. Ojha & S.K. Nayak (Intervenors)

IN O.A.NO.254/2008

Trilochan Behera, aged about 40 years, S/o. late Lingaraj Behera at present working at the Office of the General Manager, Ordnance Factory, Badmal, At/PO-Badmal, Dist-Bolangir

...Applicant

By the Advocates: M/s. Ganeswar Rath, S.N. Mishra, T.K. Praharaj & S. Rath

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By the Advocates: Mr. U.B. Mohaptra, SSC
M/s. S.K. Ojha & S.K. Nayak (Intervenors)

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ORDER

HON'BLE SHRI A.K. PATNAIK, JUDICIAL MEMBER:

1. Since in both the Original Applications the point to be decided arises out of similar facts and circumstances, this common order is being passed.
2. Shorn of unnecessary details, it would suffice to note that earlier both the applicants had approached this Tribunal in O.A.Nos.239 and 240 of 2007, respectively, challenging the order dated 24.7.2007, reverting them from the posts of Chargeman Grade-II/T/Elect., to the grade of Electrician/HS, Gr.II. This Tribunal, vide order dated 19.9.2007 rejected both the OAs at the stage of admission itself on the grounds that the applicants had approached the Tribunal without exhausting the departmental remedies. However, while rejecting those OAs, the Tribunal observed that in the event the applicants preferred appeals, if so advised before the appellate authority questioning the orders of reversion, the said appellate authority should consider and dispose of the same at the earliest in accordance with law.
3. Based on the above direction of the Tribunal, both the applicants, as it reveals from the record, preferred appeals dated 30.11.2007, praying therein to set aside the orders of reversion and having received no response, have moved this Tribunal in the present OAs for quashing the impugned order dated 24.7.2007, reverting them from the posts of Chargeman Grade-II/T/Elect., to the grade of Electrician/HS. Gr.II.
4. The grounds urged by the applicants in support of their contentions are –
 - (i) before the orders of reversion could be issued no show cause notice had been issued and thereby, there has been violation of the principles of natural justice;



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- (ii) the applicants having served in the promotional posts for a long standing period of six years, reversion at this point of time is arbitrary and colourable exercise of powers;
 - (iii) official Respondents having categorically permitted the applicant for higher education conducted by All India Education Society in the College of Oxford College of Education and having accepted the certificate for appearing at the examination, it would be whimsical to issue reversion orders having allowed the applicants to work on the promoted posts for a period of six years.

4. While contesting both the Original Applications, the Respondent-Department have taken a common stand point. According to them, the Diploma Certificates produced by the applicants were of one year course and not three years, which fact having been suppressed, they could be allowed to appear at the interview for the post of CM-II(T)/Electrical falling under 25% LDCE quota conducted in the year 2000. According to them, the certificates obtained by the applicants from Oxford College of Education is neither recognized by the Government of India nor affiliated to AICTE. Respondents have further stated that the certificates so produced by the applicants are bogus and fictitious in view of the fact that the Oxford College of Education is a registered body only and not a recognized one. The Respondents have further submitted that on examination of show cause replies by the applicants it revealed that documentary evidence has ^{been} furnished to prove that the Diploma possessed by the applicants is recognized 03 years Diploma or equivalent as per SRO-13(E). In the circumstances, the applicants were reverted. They have submitted that both the OAs being devoid of merit are liable to be dismissed.

5. Applicants have filed their rejoinders to the counters.

6. We have heard Shri G.Rath, learned Senior Counsel for the applicants, Shri U.B.Mohaptra, learned Senior Standing Counsel for the Respondent-Department and Shri S.K.Ojha, learned counsel appearing for the intervenors and perused the materials on record. We have also considered the submissions made by the learned

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counsel for the parties and given our anxious consideration to the arguments advanced at the Bar. Applicants have not specifically refuted the averments made by the Respondent-Department with regard to legality and validity of the certificates produced by them for the purpose of securing the job in the promoted posts through LDCE. Recently, this Tribunal, while dealing with O.A.No.285/2008, arising out of similar circumstances, held that this Tribunal is not the proper adjudicatory form to test the legality and validity of certificates produced by an incumbent for the purpose of securing job in the Department. Since the whole object of reversion in the instant case revolves round the legality and validity of the diploma certificates produced by the applicants vis-a-vis the competency of Oxford College of Education of Technology to issue such certificates, in our considered view, the Tribunal lacks jurisdiction to hold an opinion in this issue, particularly when the authenticity of the certificates as well as the Institution issuing such certificates are called in question by the employer. Apart from the above, we do not see any violation of the principles of natural justice inasmuch the applicants had been issued with show cause notices before the impugned orders of reversion could be issued, in response to which they had also submitted representations, as would be evident from the orders of this Tribunal in the earlier round of litigations by the applicants, as referred to above. Therefore, the grounds urged by the applicants that there has been violation of the principles of natural justice is out of place.

In so far as plea of the applicants that the Respondent-Department having promoted and allowed them to work in the promotional posts for about six years, the present reversion orders are an outcome of colourable exercises of powers is concerned, we would like to say that it has been settled position of law enunciated by the Hon'ble Apex Court from time to time that administrative error could be rectified

20

at any point of time. Viewed from this, the action of the Respondent-Department is within their domain.

7. For the reasons aforesaid, we hold that both the Original Applicants are liable to be dismissed ~~not~~ being devoid of merit and accordingly, the same are dismissed.

No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER

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