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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.310 of 2008
Cuttack, this the 17th day of February, 2009

Smt. Mammatamayee Biwal 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?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.310 of 2008
Cuttack, this the 7th day of February, 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)

Smt. Mamatamayee Biswal, aged about 29 years, wife of
Baikuntha Baliarsingh, At-Balajitpur, PO.Tipuni, PS.Kanas,
Dist. Puri.

.....Applicant

By the Advocate:M/s.P.K.Mishra,A.K.Panda,S.S.Mishra

- Versus -

1. Union of India represented through the Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi-110 016.
2. Assistant Commissioner (Offg.) Kendriya Vidyalaya Sangathan, Regional Office, Mancheswar, Bhubaneswar.
3. The Principal, Kendriya Vidyalaya, Khurda Road, Retang Colony, Jatni-752 050, Dist. Khurda.
4. Miss. Benadatta Sana, Pre-Primary Teacher, O/O Principal, Kendriya Vidyalaya, Khurda Road, Retang Colony, Jatni, Dist. Khurda.

....Respondents

By Advocate :Mr. Ashok Mohanty

O R D E R

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

The case of the Applicant in nut shell is that According to the Applicant on 28th February, 2005 an advertisement was published by the Respondent No. 3 in the daily Oriya News paper the 'Samaj' for appointment/engagement of Pre-primary Teacher in Kendriya Vidyalay, situated at Retanga Colony of Khurda on contractual basis for the year 2005-2006. In pursuance of the said advertisement the applicant attended the interview on 10.03.2005 and was selected for the post and engaged accordingly. Again she was selected for the

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academic sessions of the year 2006-2007 and 2007-2008. For engagement of pre-primary teacher on such contractual basis for the session 2008-2009 advertisement was published in the news paper fixing the scheduled date of interview on 26.03.2008. According to the Applicant though she applied to appear at the interview, the Respondents without any intimation postponed the scheduled date of interview and held the interview on 10.04.2008 and the applicant on receipt of telephonic intimation appeared at the interview on 10.04.2008. Her stand is that although she had done well in the interview, without paying any regard to her teaching experience, the Respondents have illegally selected Respondent No.4 who even according to the Applicant does not have any teaching experience. Hence by filing this OA she seeks annulling the selection and appointment of Respondent No.4 and for direction to the Respondents to engage her in the post of pre-primary teacher in the KV, situated at Retang Colony of Khurda Road for the academic session 2008-2009.

2. Pleading no illegality, the Respondents in their counter have stated that the selection and appointment of Respondent No.4 was in accordance with the Rules and conditions stipulated in the advertisement. It has been stated that it is incorrect to state that the scheduled date of interview given in the advertisement was postponed. The selection and interview was conducted on 26.03.2008 in which the applicant had also participated. There were 14 candidates participated in the selection conducted on 26.03.2008 out of which five candidates were selected for engagement as Pre-primary Teacher and that on the recommendation of the Selection Committee/Interview

the said five candidates were called upon to be present on 10.04.2008 for verification of their certificates. Copy of the check-sheet showing the names and marks obtained by different candidates has been placed with the counter by the Respondents as Annexure-R/I. It has further been clarified by the Respondents that the merit position of the Applicant was at Sl. No.9 and that while the applicant secured 30.5 the Respondent No.4 secured 62.5 marks in the interview. They have also denied the assertion of the applicant that Respondent No.4 does not have the necessary qualification to be selected to the post in question. By placing copies of the certificates produced by the Respondent No.4, it has been stated by the Respondents that it is incorrect to state that the Respondent does not have the necessary qualification and experience to be appointed as Pre-Primary Teacher. According to the Respondents, Respondent No.4 is a holder of Diploma in Nursery Teachers Training as well as having seven years teaching experience in different schools in Orissa and West Bengal. Accordingly, the Respondents pray for dismissal of this OA.

3. Heard. Perused the materials on record. Rulings of the Courts are that it is not for the Tribunal to decide who should be selected to which post or assess the performance of the candidate participated in the selection. It is for the selecting agency to decide on the basis of the performance and records. Intervention in the matter of selection is called for only where the selection was made on tale-tell procedural irregularity contrary to the conditions stipulated in the advertisement or the same is actuated with *mala fide* or colourable exercise of power which is not the case of the Applicant in the present

OA. The only ground taken by the Applicant in support of her prayer is that Respondent No.4 lacks essential qualification of experience which is now proved to be wrong in view of the Annexure-R/IV filed by the Respondents.

4. In view of the above, we find no substance in the contentions of the Applicant so as to annul the selection and appointment of Respondent No.4. Accordingly, this OA stands dismissed by leaving the parties to bear their own costs.

Thankappan
(JUSTICE K. THANKAPPAN)

MEMBER (JUDICIAL)

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