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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NOS. 436 OF 2008
Cuttack, this the 4th day of December, 2008

Jatindra Kumar Sahoo Applicant
Vs.
Union of India & Others Respondents

FOR INSTRUCTIONS

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


(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

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CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 436 OF 2008
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CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
&
Hon'ble Mr. C.R. Mohapatra, Administrative Member
.....

Jatindra Kumar Sahoo, Son of Late Raghunath Sahoo, aged about 35 years, At-Kharamangi, PO-Siha, PS-Barchana, Dist-Jajpur..... Applicant

By the Advocate(s)

.....

M/s. S.B. Jena,
S. Behera
S.S. Mohapatra

Vs.

1. Union of India, represented through the General Manager, E.Co. Railway, Chandrasekharpur, Bhubaneswar.
2. The Chief Personnel Officer, E.Co. Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar.
3. The Sr. Senior Divisional Personnel Officer, E.Co. Railway, Khurda Road, P.O. Jatni, Dist-Khurda, Pin-752050.
4. The Deputy Chief Personnel Officer (Rect.), E.Co. Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar.

..... Respondent(s)

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O R D E R

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

Aggrieved by his non selection to the post of Jr. Trackman and Helper II, in pursuance to the Employment Notice No.ECoR/RRC/D/2006/01 dated 28.10.2006, the applicant has filed this Original Application under Section 19 of the Central Administrative Tribunal's Act, 1985, wherein he has prayed for a direction that the evaluation of answer sheet through private agency being beyond rules is nonest in the eye of law and therefore the entire selection is void abinitio. It has also alternatively been prayed for issuing a direction to the Respondents to declare the applicant successful in the written test.

2. The facts leading to filing this O.A. in brief are that in pursuance of the Employment Notice No.ECoR/RRC/D/ 2006 / 01 dated 28.10.2006 the applicant submitted application to the post of Jr. Trackman and Helper II in East Coast Railway. As per the notification, the minimum educational qualification was fixed as VIII standard pass and the candidate has to appear for the written test and physical efficiency test, followed by a medical examination. It is also stipulated in the notification that those who obtain qualifying marks in the written examination, would only be called for physical efficiency test. Further, it is stated in the advertisement that the marks obtained in the written examination will determine the 'Merit Order'. However, after the written test, the name of the applicant did not appear in the website or in the result so published after the written test was over. Hence, the applicant now submits that since the minimum educational qualification was prescribed as pass of VIII standard, he being a Graduate was hopeful to get through the examination. But because of the method of evaluation of the answer sheets he was not found successful, and hence injustice was meted out to him. Further, the applicant submits that as there was foul play in conducting the written test, he could not be selected for appearing at the physical efficiency test, and if so, his non

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selection is in violation of Articles 14 and 16 of the Constitution of India. The further case of the applicant is that being a member of OBC was expected to be selected for the post, and hence he has prayed that this Tribunal should interfere and declare the entire written examination and the process of selection abinitio void.

3. After hearing Ld. Counsel appearing for the applicant and perusing the materials placed before this Tribunal, the question to be decided is whether the contentions of the applicant could be considered by this Tribunal under Section 19 of the Central Administrative Tribunal's Act or not. The further question to be considered is whether the applicant is justified in approaching this Tribunal challenging the selection made by the authorities or not. The main claim of the applicant is that he being a Graduate was hopeful that he would come out successful in the written test, but as the test was conducted with mala fide intention to discard the applicant, his name did not appear in the result of the written examination. It is also contended by the applicant that it was deliberately designed by the authorities to conduct the written test in such a manner so that the candidates, except those belonging to State of Bihar, are eliminated.

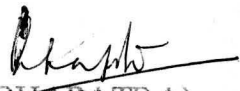
4. Having regard to the above submissions, we are not inclined to assess the method of conducting the written test or the procedure followed by the authorities in conducting the test, with limited jurisdiction of this Tribunal, as provided under Section 19 of the Central Administrative Tribunal's Act, 1985. Apart from that, to prove mala fide the applicant has not produced any substantive document to express a prima facie opinion on the alleged mala fide. Apart from the above, the applicant has not impleaded any of the functionaries by name as respondent, except making a bald allegation of malafide and therefore, it is not proper for this Tribunal to jump to a conclusion. Besides, the jurisdiction of the Tribunal is very limited to interfere where the process of

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selection is already over or procedures followed by the public authorities as such are based on prescribed rules. In any circumstances, the applicant having accepted the manner of selection is now estopped from challenging the same after becoming unsuccessful.

5. In the light of the above discussions, this Tribunal is of the view that this Original Application is devoid to any merit and accordingly the same is dismissed at the admission stage itself, with no order as to costs.



(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER



(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER