

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

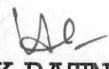
Original Application No.605 of 2010

Cuttack, this the 07th day of September, 2011

Manoranjan Mishra & Ors. Applicants
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?


(A.K.PATNAIK)
MEMBER (JUDICIAL)


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

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 605 of 2010
Cuttack, this the 07th day of September, 2011

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)
A N D
THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

1. Shri Manoranjan Mishra, aged about 30 years, son of Shri Madhab Prasad Mishra working for gain as Khalasi under Sr. Signal & Telecom Engineer (TM), E.Co.Railway, Bhubaneswar at present residing at A/L-37, VSS Nagar, Bhubaneswar, PIN 751 007.
2. Srinibash Satpathy, aged about 37 years, son of Sri Durga Charan Satpathy working for gain as Khalasi under Sr.Signal & Telecom Engineer, E.Co.Railway, Khurda Road at present residing at Plot No. 64, Laxmivihar, PO. Sainik School, Bhubaneswar-5.
3. Amar Kumar Das aged about 37 years, son of Late Debendra Das working for gain as Khalasi under Sr. Signal & Telecom Engineer, E.Co.Railway, Khurda Road, at present residing at Khandia Bazar, PO. Charampa, Dist. Bhadrak, PIN 756 101.
4. Ajit Kumar Behera, aged about 32 years, son of Sri Pramod Kumar Behera working for gain as Khalasi under Sr. Signal & Telecom Engineer, E.Co.Railway, Khurda Road at present residing at Qr.No.EWS-1/51, BDA Colony, Bhubaneswar-751 006.
5. Bhaskara Malika aged about 30 years, son of Sri Surendra Malika working for gain as Khalasi under Sr. Signal & Telecom Engineer, E.Co.Railway,Khurda Road at present residing at Qr. No. ET/10/B, Haridaspur Railway Colony, Dist.Jajpur.
6. Rabindra Kumar Naik, aged about 40 years, son of Sri Ritu Naik working for gain as Khalasi under Senior Signal & Telecom Engineer, ECoRailway Khurda Road at present residing at Qr.No.E 8/A, Dhanmandal Railway Colony, Dist.Jajpur.
7. Binod Kumar Sethi aged about 34 years, son of Sri Upendra Prasad Sethi working for gain as Khalasi under Sr. Signal & Telecom Engineer, E.Co.Railway, Khurda Road at present

residing at Kalarapal, PO. Oupada, Dist.Balasore, PIN 756 049.

8. Niranjan Murmu aged about 31 years, Son of Sri Hemendra Nath Murmu working for gain as Khalsi under Sr. Signal & Telecom Engineer, ECoRailway, Khurda Road at present residing at Jamsula, PO. Itamunda, Dist. Mayurbhanj, PIN 757 075.
9. Hari Prasad Reddy, aged about 28 years, So of Sri G.P.Reddy working for gain as Khalasi under Sr. Signal & Telecom Engineer TM, ECoRailway, Bhubaneswar at present residing at Hatbazar, PO. Jatni, Dist. Khurda, PIN 752 050.
10. Binod Kumar Mandal, aged about 35 years, son of Sri Gokul Mandal working for gain as Khalasi under Sr. Section Engineer (S&T), ECoRailway, Talcher at present residing at Padiabhang, Chainpad, Angul.
11. Sandeep Kumar Nayak, aged about 26 years, son of Sri Krutibas Nayak working for gain as Khalasi under Sr.Signal & Telecom Engineer, ECoRailway, Khurda Road at present residing at Panishal, PO. Kalabadia, Dist. Mayurbhanj, PIN- 757030.

.....Applicant

By legal practitioner: Mr. Achintya Das, Counsel.

-Versus-

1. Union of India represented through General Manager, ECoRailway, Chandrasekharpur, Bhubaneswar.
2. Divisional Railway Manager, ECoRailway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.
3. Sr. Divisional Signal & Telecom Engineer, ECoRailway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.
4. Sr. Divisional Personnel Officer, E.Co.Railway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.

....Respondents

By legal practitioner: Mr.S.K.Ojha, Standing Counsel.

ORDER

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

The case of the Applicants, in nutshell is that

Senior Divisional Personnel Officer, ECoRly, invited applications

from Gr.D employees working in all the Departments of KUR

Divn of ECoRly for filing up of 25 vacancies of Jr. Clerk Cum

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Typist (UR-19, SC-4 & ST-2) coming under 33 1/3%
Departmental Promotion Quota vide Notification dated 02-12-
2009. The names of the Applicants were placed in the list of
eligible candidates to appear at the test scheduled to be held on
03-10-2010 and supplementary test on 10-10-2010 and the
immediate authority of these candidates ^{were} advised by the
Sr.DSTE/ECoRly/KUR to spare the candidates belonging to
reserved community to undergo pre-selection coaching for a
period of 3 to 4 weeks as provided under the Rules.
Subsequently vide notification dated 29.9.2010 (Annexure-A/4)
the names of the Applicants were deleted from the eligible list
Being aggrieved with the notification dated 29.9.2010
(Annexure-A/4) the Applicants submitted representation.
Thereafter, all the 11 (eleven) Applicants who are working as
Khalasi under the Senior Signal & Telecom Engineer and posted
at different places within the jurisdiction of ECoRailway, ^{they}
have filed this OA jointly seeking declaration that the action of
the Respondents in making them ineligible is not sustainable
and accordingly they pray to quash the ineligibility list
prepared by the Respondents vide Notification
No.P3/20/Jr.Clerk Cum Typist/33 1/3/DPQ/Sel/10 dated
29.9.2010 (Annexure-A/4) in so far as Applicants are concerned.

14

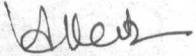
2. The Respondents in their counter have stated that the Khalasi of S&T Department were inadvertently notified to be eligible vide notification dated 02-12-2009 and provisionally included in the list of eligible candidates to appear at the test. The Selection was meant for the Gr.D employees who do not have any channel of promotion. But as per the Estt. Srl. No. EPS No. 7/2005 Khalasis in S&T Department have their own channel of promotion and as such they are not entitled to sit in the examination. This inadvertent mistake having come to the notice at a subsequent stage was rectified through corrigendum dated 17.12.2009 and 19.12.2009 and accordingly the names of the Khalasis of S&T provisionally included in the list of eligible candidates were deleted. Accordingly, Respondents have contended that inclusion of the names of the applicant cannot give them any right to appear at the test since they are not at all eligible. As such, they have prayed for dismissal of this OA.

3. Applicants have filed their rejoinder reiterating the stand taken in the OA that the Khalasis of S&T Department have no channel of promotion.

4. Heard Learned Counsel for both sides and perused the materials placed on record. By filing copy of RBE No.70/2005 dated 19.05.2005 supported by orders in which some of the Khalasis belonging to S&T Department have been

promoted to other posts, Respondents' Counsel controverted the stand of the Applicants that they do not have their own channel of promotion. We have perused the RBEs and order of promotions filed by Respondents' Counsel so also the objection filed by the Applicants' Counsel. In view of the Rules and orders showing that the Khalasis of S&T have been promoted, we have no hesitation to hold that there is no flaw in the decision of the Respondents in excluding the applicants being ineligible to appear at the test.

5. In view of the above, this OA is held to be without any merit and is accordingly dismissed by leaving the parties to bear their own costs.


(A.K.PATNAIK)
Member (Judicial)


(C.R.MOHAPATRA)
Member (Admn.)