

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 688 of 2010
Cuttack, this the 23rd day of February, 2012

Abhas Kumar Pradhan Applicant
Versus
Union of India & Others 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.)

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)
And
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDICIAL)

.....
Abhas Kumar Pradhan, aged about 45 years, Son of Late Laxmidhar Pradhan, At-Baninali, PO.Luhamunda, PS Handpa, District-Angul at present residing C/o.D.P.Mishra, At-Shaktinagar, PO.KMRoad, District-Jharsuguda.

.....Applicant
By legal practitioner -M/s.Sumanta Ku Nayak,
S.K.Sahoo, S.S.Roy
Counsel

-Versus-

1. Union of India represented through its General Manager-Cum-Chief Personal Officer, South Eastern Railway, Garden Reach, Kolkata-43.
2. Divisional Railway Manager, South Eastern Railways, Chakradharpur Division, Chakradharpur, Dist. West Singhbhum (Jharkhand).
3. Sr. Divisional Personal Manager, S.E.Railway, Chakradharpur Division, Dist. West Singhbhum (Jharkhand).
4. ADEN-Cum-Vice President, Jharsuguda S.E.Railway, At/Po./Dist.Jharsuguda.
5. Secretary, South East Railway Institute, At/Po/Dist.Jharsuguda.

.....Respondents
By legal practitioner - Mr.S.K.Ojha, SC

.....
O R D E R
C.R.MOHAPATRA, MEMBER(ADMN.)

Applicant's contention is that though he was appointed as sub care taker in one of the quasi administrative

13 organizations of the Railway and persons working for a period less than the applicant have already been absorbed in Gr. D vacancies he has been discriminated and his request for absorption in the regular Gr. D post vacancies is rejected vide Annexure-A/7 dated 20-04-2010. Further case of the Applicant is that he was disengaged from 2009 although he was appointed in 1995 and thereby discrimination was caused by the Respondents in between the Applicant and the persons who were similarly placed like him and have been absorbed in regular Gr. D posts. Therefore, by filing the instant OA the Applicant has sought the following reliefs:

- "i) The Hon'ble Tribunal may admit the Original Application issue notices to the Respondents to file show cause as to why the applicant's name shall not be considered for absorption in Group D post in the Railway;
- ii) If the Respondents fail to file show cause or insufficient cause then the Learned Tribunal after hearing the counsel for the parties and perusing the records be pleased to direct the Respondents to absorb the applicant in Group D post under the Respondent No.3 as his joining has already absorbed in Group D post in Railway;
- iii) Any other relief/reliefs the Hon'ble Tribunal deem fit and proper."

2. Respondents in their counter have submitted that the applicant was engaged in the quasi administrative organization of the Railway in the name of Abhas Ku Pradhan

whereas he claimed regularization by producing Matriculation certificate issued in the name of Tankadhar Pradhan supported by an affidavit that Abhas Ku Pradhan and Tankadhar Pradhan is one and the same. As passing matriculation is the minimum qualification for being absorbed in Gr. D service in Railway due to the discrepancy noted above the competent authority while recommending the name of others who were engaged along with the applicant did not recommend the name of the applicant. Applicant has produced an affidavit stating therein that Shri Abhas Ku Pradhan and Shri Tankadhar Pradhan is one and the same which was not accepted by the authority. Accordingly, Respondents have prayed for dismissal of this OA.

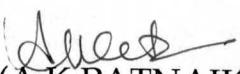
3. Learned Counsel appearing for both sides have reiterated the stand taken in their respective pleadings and having heard them at length perused the materials placed on record. The matriculation certificate is an unimpeachable piece of evidence and facts available therein cannot be questioned unless and until the same are changed by following due process of Rule/Law. By filing an affidavit after a long gap one cannot claim before the public authority something other than what has been recorded in the Matriculation Certificate. By

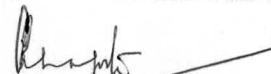
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filings such an affidavit the applicant may explore the possibility of changing his name, if admissible, before the appropriate authority who issued the matriculation certificate.

But certainly, he cannot claim appointment through such an affidavit. This Tribunal lacks jurisdiction to decide or to issue any declaratory order that Shri Abhas Ku Pradhan and Shri Tankadhar Pradhan is one and the same. This apart there is no prayer to quash the order of rejection under Annexure-A/7 and unless the order of rejection is quashed, it is not feasible to grant the relief claimed by the applicant in this OA.

4. In view of the above, we find no infirmity in the action of the Respondents in not recommending the name of the applicant for regularization in Gr. D post vacancies while recommending the name of others. According this OA being devoid of any merit is dismissed by leaving the parties to bear their own costs.


(A.K.PATNAIK)
Member (Judicial)


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