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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.793 OF 2010
Cuttack this the 6th day of February, 2013

CORAM:
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Raghunath Behera,
aged about 33 years,
S/o. Babaji Behera,
Village-Ichhapur,
PO-Baladev Jew,
PS/Dist-Kendrapara

...Applicant

By the Advocates:M/s.K.N. Parida
R.Ku.Mohanty
N.Ku.Mohanty

-VERSUS-

Union of India represented through

1. The General Manager,
East Coast Railway,
Rail Vihar,
At/PO-Chandrasekharapur,
Bhubaneswar,
Dist-Khurda
2. Divisional Railway Manager (P),
Khurda Road,
At/PO-Jatni,
Dist-Khurda
3. Senior Divisional Personal Officer,
Khurda Road Division,
East Coast Railway, At/[PO-Jatni,
Dist-Khurda

...Respondents

By the Advocates:Mr..Ratha (SC)

ORDER(Oral)

SHRI R.C.MISRA, MEMBER(A):

Applicant in this Original Application has come up with a prayer
for issuing direction to the Railway Authorities, viz., Respondent No.2

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to appoint him in a Group-D post. He has also prayed for quashing of the decision of the Respondents communicated to him vide Annexure-5 dated 2.2.2010.

2. Facts of the matter are that the applicant had applied for Group-D post in the Civil Engineering Department and Operating Department of East Coast Railway, Khurda Road Division in response to the Employment Notification issued in the year 1998. In the written test conducted by the Railway Authorities, he came out successful and was advised by the Railway Authorities to report to them on 24.3.2009 along with the original certificates in support of date of birth, educational qualification and caste/community. He appeared on the date fixed before the authorities and his documents were verified. Subsequently, he was issued with a provisional appointment letter vide Annexure-3 dated 30.7.2009. He was asked to give his acceptance of offer by completing certain formalities as contained in Part-II of that letter and submitting them to the authorities. The applicant duly complied with these requirements. However, the applicant received a letter dated 2.2.2010 which is Annexure-5 of this O.A. informing him that on verification, it was ascertained that he belongs to Scheduled Caste community and that as the post against which he was called for verification is earmarked for Scheduled Tribe category, his appointment this post could not be considered. The applicant has challenged this communication and made a prayer that he should be given appointment in pursuance of the earlier communication as at Annexure-3.

3. In course of hearing of this matter, Shri K.N.Parida, learned counsel submitted that the applicant has made it very clear from the very beginning that he belongs to Scheduled Caste being 'CHAMAR' by caste. He has not suppressed any information. It is also to be noted that the letter of provisional appointment at Annexure-3 issued to him earlier does not make any mention that the post was reserved for S.T. category. Therefore, the authorities have acted arbitrarily in suddenly communicating to the applicant further that the post was reserved for the ST category and being a member of the S.C. community he could not be considered for appointment against that post.

4. Shri T.Rath, learned SC for the Railways does not dispute the factual position as stated by the applicant. However, it is his contention that the applicant being a member of S.C community cannot be appointed against a post which is reserved for the ST category. Regarding the communications sent to the applicant vide Annexures-A/3 and A/5, Shri Rath submitted that it was an inadvertent mistake committed by the concerned authorities in sending a provisional letter of appointment to the applicant who is a member of the S.C community against a post earmarked for the S.T category. He submitted further that this mistake, however, was subsequently detected and the applicant was duly informed and that there was no mala fide intention on the part of the Railway Administration. However, once a bona fide mistake was detected the



Railway Administration had no other option except canceling the provisional appointment letter issued to the applicant.

5. On his own admission, the applicant is a member of the Scheduled Caste community and therefore, he ought not to have been considered for appointment against a post reserved for ST category. To a query made by this Bench whether the applicant could have been considered against a post earmarked for SC category, Shri Rath, learned SC for the Respondents replied that this aspect was also examined by the Railway Authorities. The fact of the matter is that 182 SC candidates with higher rank over and above the applicant are not coming within the zone of consideration in the SC category. As such, in the normal circumstances, but for the aforesaid mistake, the applicant could not have been called even for verification of his testimonials as SC candidate.

6. We have heard Shri K.N. Parida, learned counsel for the applicant and Shri T.Rath, learned SC for the Railways. Since, this is an inadvertent mistake committed by the Railway Authorities and considering other facts and circumstances of the case, no relief could be granted to the applicant. Accordingly, his prayer is disallowed.

7. However, we are constrained to observe that the Respondents in the matters of this type should have been extremely careful in checking and verifying various documents before sending a provisional letter of appointment to the applicant. In such matters




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extreme caution should be exercised since any slip even though inadvertent would lead to unnecessary litigation and mental agony.

8. With the above observation, the O.A. is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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