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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 260/00506 of 2011
Cuttack, this the 20th day of September, 2017

CORAM

HON'BLE MR. S.K.PATNAIK, MEMBER (J)
HON'BLE DR. M. SARANGI, MEMBER (A)

.....

Kartika Chandra Dash,
aged about 34 years,
Son of Sri Mahavir Dash,
Village- Ichhadei Patna,
PO- Kothapatna, Via- Phulnakhara,
Dist- Khurda, Orissa.

...Applicant

Advocates: M/s. S.Mohanty .

VERSUS

Union of India represented through

1. Secretary,
Department of Steel,
Govt. of India, Udyog Bhawan,
New Delhi-110107.
2. Steel Authority of India Limited,
Rourkela Steel Plant represented by its
Managing Director,
At/PO/PS- Rourkela,
Dist-Sundargarh, Orissa.
3. Assistant General Manager (Personnel), Recruitment
Block-E, Ground Floor,
Administration Building, SAIL,
Rourkela Steel Plant, Rourkela-769011,
Dist-Sundargarh, Orissa.
4. Sanjit Kumar Pattnaik,
Laboratory Technician (Trainee),
Rourkela Steel Plant, Rourkela-769011,
Dist- Sundargarh, Orissa.
5. Upendra Kumar Swain,
Laboratory Technician (Trainee),
Rourkela Steel Plant, Rourkela-769011,
Dist- Sundargarh, Orissa.

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6. Lingaraj Behera,
Laboratory Technician (Trainee),
Rourkela Steel Plant, Rourkela-769011,
Dist- Sundargarh, Orissa.

..... Respondents

Advocate(s) : M/s. G.Mishra, D.K.Patra (For Resp. 2 and 3)

M/s. N.R.Routray, S.Mishra, T.K.Choudhury and
S.K.Mohanty (For Resp. 4 and 5) .

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ORDER

S.K.PATTNAIK, MEMBER (JUDL.):

Applicant seeks for a direction to Respondent Nos. 2 and 3 to consider his appointment to the post of Laboratory Technician (Trainee) on the basis of written test held on 14.03.2010 and viva voce test held on 15.03.2010 under handicapped quota. The applicant further seeks for a direction to Respondent Nos. 2 and 3 to consider reservation for the purpose of employment of blind, deaf and orthopedically handicapped persons in Group-C and D posts.

2. The applicant's case, in short, runs as follows:

An advertisement was published on 20.05.2009 for special recruitment drive of persons with disabilities for several posts including the post of Laboratory Technician (Trainee). The category of disability prescribed was Orthopedically Handicapped (One Leg Affected) [O.H.(O.L.)] and for Hearing Handicapped (H.H.)-Hearing Impairment (H.I.) [Partially Deaf (P.D)]. It was stipulated in the advertisement that persons with disabilities having 40% or more were eligible to apply and

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there were three number of vacancies and the minimum qualification prescribed was B.Sc. with Physics and Chemistry as subject. Mode of selection was written test and interview, who qualify in the written test, and age limit was prescribed as 40 years. Further case of the applicant is that he appeared in the written test on 14.03.2010 and having qualified in the written test appeared in the interview on 15.03.2010. The applicant was patiently waiting for the result but, as one year was going to elapse, he made an application on 28.02.2011 under RTI and could know that he has not been found suitable whereas private Respondents (Respondent Nos. 4 to 6) belonging to O.H.(O.L.) category have been selected in the post of Laboratory Technician (Trainee). The grievance of the applicant is that no candidate belonging to Hearing Impaired (Partially Deaf) [H.I.(P.D.)] had qualified in the test besides the applicant and on the principle of reservation of Government of India, he should have been given appointment.

3. Respondent Nos. 2 and 3 contested the case by filing a regular counter. According to these Official Respondents, appointment orders to Respondent Nos. 4 to 6 were issued on 19.04.2010 and the applicant approached this Tribunal on 02.05.2011, i.e. after the period of limitation. According to these Respondents, the Steel Authority of India, Rourkela Steel Plant (SAIL, RSP) is a Central Public Sector Company and is governed by the guidelines issued vide Govt. of India, Ministry of Personnel, Public Grievances and Pension, DoP&T, New Delhi dated

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26.04.2006 (Annexure-R/1). According to these Official Respondents, the notification of 2009 was issued as a special recruitment drive for persons with disabilities notifying six categories of posts which was identified for recruitment from amongst two categories of disabled persons, i.e. Orthopedically Handicapped (O.H.) and Hearing Handicapped (H.H.)/Hearing Impaired (H.I.). According to these Respondents, as many as 447 candidates had applied for all the posts notified under Annexure-A/1 and after selection 15 number of posts were filled up covering both the categories from the persons, who qualified in the process of selection. However, the applicant did not come out successful for the post of Laboratory Technician (Trainee) to which he had applied under H.H. Category. They have further pleaded that as regards selection for three posts available for Laboratory Technician from amongst two categories, i.e. O.H. and H.H., to which the applicant belongs, 84 numbers of candidates had applied and after initial screening 35 number of candidates were found eligible for written test and out of the candidates, who appeared in the written test, only 20 number of candidates were called for interview before the selection committee. The applicant's name did not feature in the final selection list as he failed to qualify in the interview by securing the minimum marks. Official Respondents have furnished a table of marks secured by the selected candidates and the applicant, which is extracted below:

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Sl. No.	Name of the Candidate	Marks
1	Sanjit Kumar Pattnaik (Respondent No.4)	62
2	Upendra Kumar Swain (Respondent No.5)	61.3
3	Lingaraj Behera (Respondent No.6)	45.6
	Kartik Chandra Dash (Applicant) Did not qualify	30.5

4. According to the Official Respondents, the applicant was found not suitable on the ground of not having secured minimum marks and further more meritorious candidates were given appointment. By way of a counter affidavit, Respondent Nos. 2 and 3 have further pleaded that the applicant secured 14.5 marks out of 50 in the interview and did not feature in the select list for lack of securing qualifying marks in the interview as the minimum qualifying mark for General candidate was 25 out of 50 whereas for SC/ST and OBC it was 20 marks. There were 50 marks for the written test and 50 marks for interview and final merit list was drawn in descending order out of 100 marks and the select list was prepared taking into account the qualifying marks in the interview. Respondents further admitted that after the interview, it was found that all the three candidates selected as per the merit list happen to be from Orthopedically Handicapped (One Leg Affected) category and, even though, there were four candidates from H.H./H.I.(P.D) category to which the applicant belongs could not qualify. Further case of these

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Respondents is that the applicant having subjected himself to recruitment process cannot be permitted to challenge the vires of the notification or selection process.

5. Respondent Nos. 4 and 5, who have joined in pursuance to the selection process, contested the case by filing a counter. Respondent Nos. 4 and 5 categorically pleaded that they secured more than 40 marks in the written test whereas the applicant failed to qualify in the test having secured only 30.5 marks. According to these Respondents, they were duly selected under a valid recruitment process and the applicant has no locus standi to challenge their selection.


6. The whole case revolves round the justifiability of the selection process. Admittedly, the applicant had secured 16 marks in the written test and 14.5 marks in the interview and since in the selection criteria the minimum qualifying marks for viva voce was 25 out of 50, certainly the applicant fell short of the qualifying marks in the interview. There is another aspect, i.e. the last selected candidate, viz. Respondent No.6, had secured 45.6 marks whereas the applicant could secure only 30.5 marks. Had the applicant secured even more than 45 marks his case could have been considered as one selected candidate did not join in the post, But, since the applicant did not qualify in the interview, the question of his selection does not arise.

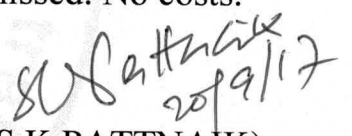
7. Even though, Ld. Counsel for the applicant argued that one post in the category of Hearing Impaired should have been reserved, such a matter cannot be agitated at this distance of time. Even if one post

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would have been reserved for the category of the applicant still he cannot get the job as he could not qualify. Ld. Counsel for the applicant further submitted that still one post is lying vacant and in such premises his case should have been considered. Since the applicant could not qualify in the interview, it has nothing to do with the vacancy and a person not qualified in the test cannot be permitted to occupy a chair merely because there is a vacancy. One must acquire minimum eligibility for a post and for not securing 20 marks in the interview, the applicant has to blame himself. This Tribunal cannot assume the role of an interviewer. As no infirmity is noticed in the selection process, no interference is called for. Hence ordered.

8. The O.A. being devoid of merit is dismissed. No costs.


(M. SARANGI)
Member (Admn.)


(S.K. PATTNAIK)
Member (Judl.)

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