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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No. 538 of 2011

Raghunath Pradhan and others Applicant

Versus

Union of India & Ors Respondents

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Order dated: 18 -8-2011.

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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There are 40(forty) Applicants who have joined together in this OA stating that though they have applied pursuant to the advertisement to face the selection for engagement as Licensed Porter in the Railway/Bhubaneswar Railway Station, the Respondents while calling others to appear at the selection scheduled to be held on 24.8.2011 have deprived the Applicants of appearing at the said selection. Hence by filing this OA, they seek to declare the selection scheduled to be held on 24.08.2011 for appointment as Licensed Porter in the Bhubaneswar Railway Station without calling them while calling others to appear at the test as illegal, arbitrary and void *ab initio* with further prayer to direct the Respondents to allow them to appear at the test and in the event of their being successful they should be engaged as

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Licensed Porter in the Bhubaneswar Railway Station. By filing MA no. 693 of 2011 they seek permission to prosecute this OA jointly.

2. Heard Mr. A.Das, Learned Counsel for the Applicants and Mr. S.K.Ojha, Learned Standing Counsel for the Respondent-Railway on whom a copy of this OA has already been served.

3. In view of the doubts, before going to the merit of the matter, we wanted the learned Counsel for the Applicants to convince us about the maintainability of this OA. Learned Counsel for the Applicants has fairly admitted that Licensed Porter does not carry any scale of pay nor comes within the meaning of Civil Post. However, he submitted that as the selection date is fixed to 24.08.2011 there is hardly of any time available to the applicants instead of raising the point of maintainability notice may be issued to the Respondents keeping the question of maintainability open and allowing the applicants to appear at the test scheduled to be held on 24.08.2011. Law is well settled that order passed by a court/Tribunal having no jurisdiction is a nullity. In view of this it is necessary to examine the question of jurisdiction first.

4. Section 14 of the A.T.Act, 1985 deals with regard to Jurisdiction, powers and authority of the Central Administrative Tribunal. It provides as under:

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"14. Jurisdiction, powers and authority of the Central Administrative Tribunal - (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all Courts [except the Supreme Court' in relation to -

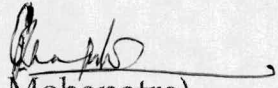
- (a) Recruitment and matters concerning recruitment, to any All India Service or to any Civil service of the Union or a Civil Post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian:
- (b) All service matters concerning-
 - (i) a member of any All India Service; or
 - (ii) a person [not being a member of an All India Service or a person referred to in Clause (c) appointed to any civil service of the Union or any civil post under the Union; or
 - (iii) a civilian [not being a member of an All India service or a person referred to in Clause (c)] appointed to any defence services or a post connected with defence and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation [or Society] owned or controlled by the Government.
- (c) All service matters pertaining to service connection with affairs of the Union concerning a person appointed to any service or post referred to in sub clause (ii) or sub clause (iii) of clause (b) being a person whose services have been placed by a State Government or any local or other authority or any Corporation [or Society] or other body, at the disposal of the Central Government for such appointment."

5. The notification was for appointment as Licensed Porter in different Railway stations. The post of Licensed Porter does not come under the purview of 'civil' post of the State/Railway nor does it carry any particular scale of pay.

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Licensed Porter means persons found fit would be issued license enabling to carry the luggage of the passengers travelling in the train inside the Railway Stations at the cost of the passengers. The Railway does not/shall not pay them for the above work. As such, this OA is not maintainable before this Tribunal. Hence without going to the merit of the matter this OA so also MA stand dismissed on the ground of jurisdiction/maintainability. The Applicants, if so advised, may redress their grievance before appropriate Court of Law.


(A.K. Patnaik)
Member (Judl.)


(C.R. Mohapatra)
Member (Admn.)