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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.53 OF 2010

Cuttack this the 30th day of September, 2011.

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER  
AND  
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Parikshit Behera, aged about 47 years, S/o. Lt. Nidhi Behera, Working as Office  
Assistant, Postal Dispensary, Cuttack, under Cuttack, City Division, Cuttack-753001  
...Applicant

By the Advocates:M/s.S.Patra & N.H.Sattar

-VERSUS-

1. Union of India represented through its Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751001
3. Director of Postal Services (Headquarter), O/O. Chief Post Master General, Orissa, Bhubaneswar, Dist-Khurda-751001
4. Senior Superintendent of Post Offices, Cuttack City Division, Cuttack, Town/Dist-Cuttack-753 001

...Respondents

By the Advocates:Mr.U.B.Mohapatra, SSC

ORDER

A.K.PATNAIK, JUDICIAL MEMBER: The facts in a nut shell are that earlier the present applicant had moved this Tribunal in Original Application No.761/2002, seeking the following relief.

“...to quash Annexure-VII and Clause-4 of Annexure-VI and to direct the Respondents to place the Applicant's result before review committee to award grace mark in subjects and lowering the standards of evaluation in the departmental examination for declaring the applicant as successful and to give promotion retrospectively i.e. (from the date of held the result of the departmental examination) for the post JAO meant for SC/ST candidates”.

2. This Tribunal, vide order dated 17.12.2004 disposed of the said O.A. in the following terms:

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“...it is conclusively held that the present Applicant was/is entitled to get the benefits provided by the Government of India Circular/instructions under Annexure-III for evaluation of lesser qualifying marks in the examination conducted for the post of JAO. Accordingly, we hereby direct the Respondents to review the result of the Applicant as per the instructions under Annexure-III within a period of sixty days from the date of receipt of a copy of this order and act further in the matter, basing on the review result, as directed above within the stipulated period”.

3. Aggrieved with the above decision of the Tribunal, the Respondent-Department moved the Hon'ble High Court of Orissa in W.P.(C) No.10379 of 2005. The Hon'ble High Court of Orissa, vide order and judgment dated 6.3.2009 dismissed the said Writ Petition being devoid of any merit.

4. No appeal having been filed against the aforesaid decision of the Hon'ble High Court and thus, the decision of this Tribunal in O.A.No.761/2002 being unalterable, the Respondent-Department carried out the direction as issued by this Tribunal by constituting a Committee. The said Committee having not recommended promotion under relaxed standards in favour of SC candidates in the examination and in effect, subsequent orders passed by the Respondent-Department in that behalf, the applicant has moved this Tribunal in the instant seeking the following relief:

- “i) The Original Application be allowed with cost.
- ii) The minutes of Circle High Power Committee dt. 12.08.09 under Annexure-A/6 and letters under Annexure-A/7 and A/8 and subsequent approval by the Directorate be quashed.
- iii) The respondents be directed to declare the applicant successful in Part-II Examination of JAO by awarding the required marks for promotion of the applicant.
- iv) The Respondents be directed to give promotion to the applicant with retrospective effect with all consequential benefits.

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v) Pass any other order/orders as would be deemed fit and proper in giving complete relief in the interest of justice and equity.

5. On being noticed, Respondent-Department have filed a detailed counter opposing the prayer of the applicant. They have submitted that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the materials on record. We have also gone through the rejoinder filed by the applicant.

6. From the pleadings of the parties, the short point that emerges for consideration is whether the Circle High Power Committee has reviewed the matter in its proper perspective, as directed by this Tribunal in O.A.No.761/2002. In other words, whether the High Power Committee, while reviewing the result of the applicant, has taken into consideration the Government of India Circular/instructions under Annexure-III for evaluation of lesser qualifying marks in the examination conducted for the post of JAO.

7. On a reference being made, it reveals that Annexure-III to Original Application No.761/2002 is the same as that Annexure-A/3 to the present Original Application. Since the entire matter hinges with regard to application of instructions as contained in Annexure-A/3 (supra), we are not inclined to unnecessarily delve into other aspects of the matter as averred by the Respondent-Department in their counter.

In this connection, we have gone through the minutes of the Circle High Power Committee vide Annexure-A/6. But we did not find any indication of Annexure-A/3 to have been taken into account by the Circle High Power Committee, as directed by this Tribunal in O.A.No.761/2002. In this background, it would be profitable to quote the relevant instructions issued by the Government of India under the Caption "Relaxation of standards in favour of Scheduled Castes and Scheduled Tribes

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candidates in qualifying/confirmation/departmental promotion examination"

(Annexure-A/3). The relevant provisions read as under.

"2(ii) In examination where the required number of candidates do not qualify even according to the relaxed standards, the cases of failed candidates should be reviewed on the basis of confidential report, the overall performance in the examination, etc., by a Committee of Senior Officers so as to assess their suitability/unsuitability.

(iii) In the case of candidates considered not unfit for promotion, grace marks should be added to bring up to the qualifying standard. There will be no limit to giving grace marks to the candidates who are not otherwise suitable. Grace marks in more than one paper will be permissible".

"Clarification – In accordance with this Office Letter No.26/2/81-SPB. I, dated 4.5.1981, failed SC/ST candidates can be awarded grace marks without any limit after conducting a review of all such candidates. While processing such cases in the Directorate, it has been noticed that cases of even those SC/ST candidates who have secured zero marks have been recommended for declaring them successful. It has now been decided that results of only those failed Scheduled Caste candidates who have secured at least 20% (twenty per cent) marks and Scheduled Tribes candidates who have secured at least 15% (fifteen per cent) marks in each paper should be reviewed".

8. On a plain reading of minutes of the Circle High Power Committee (Annexure-A/6) we envisage that the said Committee have not at all taken into consideration Annexure-A/3, as directed by this Tribunal in O.A.No.761/2002 and therefore, the decision of the Circle High Power Committee in not recommending the case of the applicant, who is a Scheduled Caste candidate, under relaxed standards suffers non-compliance of the order of this Tribunal. In this view of the matter Annexure-A/6, Annexure-A/7 and Annexure-A/8 are liable to be quashed and accordingly, the same are quashed. Respondents are directed to reconstitute the Committee with a view to reviewing the result of the applicant having due regard to

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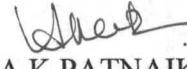
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Government of India instructions and Clarification as quoted above and pass appropriate orders within a period of 45 days from the date of receipt of this order. It is needless to mention that the Committee shall assess the suitability/unsuitability of the applicant for the post in question in line with what has been instructed in Annexure-A/3, as quoted above.

In the result, the O.A. is allowed to the extent indicated above. No costs.

  
(C.R.MOHAPATRA)

ADMINISTRATIVE MEMBER

  
(A.K.PATNAIK)

JUDICIAL MEMBER

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