

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.196 of 2010
Cuttack, this the 6th day of September, 2012

Jogendra Kumar Jena Applicant

By Legal practitioner -Mr.Achintya Das, Counsel
Versus
Union of India & Others Respondents

By legal practitioner -Mr. T.Rath, SC

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

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Heard Learned Counsel for both sides and perused the
pleadings and documents relied in support thereof.

2. To meet the deficiency arising out of the absence and
rejection of candidates from the merit list of 1012 prepared and
published by the Respondents pursuant to advertisement dated
5.11.1998 for recruitment of 787 Gangmen and 225 of Group D in
the Operating Department in Khurda Road Division of ECoRly, 89
candidates below the list of 1012, were called for verification of their
testimonials/documents keeping in view the quota allotted to different
communities. The Applicant being one amongst those 89 candidates
was called for verification of his testimonials/documents. The date of

6

verification was fixed to 24.12.2005 but subsequently postponed. However, in terms of the order dated 24.08.2007 of this Tribunal in OA No. 440/2006 in the case of Sarat Kumar Sahoo and Others Vrs Union of India and others, a total number of 89 candidates (47 who had earlier absented and 42 below the list of 1012 candidates) were called for verification of testimonials/documents. The applicant was called upon to be present on 25.09.2008 along with all documents for verification. He had applied and empanelled in the list of 1012 as an OBC candidate. But during verification, instead of OBC, he produced SEBC certificate. As he failed to produce any such certificate, despite adequate opportunity, in support of his declaration in his application that he belongs to OBC community, he was not selected and appointed to the post in question. Hence by filing this Original Application the Applicant seeks direction to the Respondents to appoint him retrospectively to the post for which he was selected. After receipt of copy of the counter, the Applicant has filed rejoinder. The Respondents have also filed reply to the rejoinder.

3. Heard the rival submissions of the respective parties and perused the documents. It has been contended by Mr. Das, Learned Counsel for the Applicant that the applicant does not belong to OBC community. But while filling up the application inadvertently he put

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the tick mark in the OBC column but he has not submitted any such certificate in support thereof. The appearance at the examination and his selection was not as an OBC candidate but as a general candidate. Because, if the applicant declared himself to be an OBC without enclosing certificate in support thereof, his candidature ought to have been rejected at the threshold. Further contention of the Applicant's Counsel is that he had secured more marks than the general candidates whose names appeared within 1012 list. But for the reason of the tick mark the applicant was kept in the OBC category. Hence it was prayed by the Learned Counsel for the applicant that the Respondents be directed to verify as to whether any of the general category candidates securing lesser mark had been selected and appointed and if so they may consider the case of the Applicant for appointment. By reiterating the stand taken in the counter and reply to the rejoinder, Respondents' Counsel vehemently opposed this submission of the applicant's counsel on the ground that the rank of the last candidate selected from general category was 598 whereas the applicant's position in the general ranking is 1629. We have considered the rival submission of the parties. As the selection of the applicant was on the basis of his belonging to OBC category (reflected in the application form and in the identity card issued to

8

him) rejection of his candidature in absence of any such OBC certificate cannot be faulted.

4. As regards the contention of the applicant that having secured more marks than the last candidate appointed in the general category, he should have been treated and appointed as a general candidate, we find this contention to be factually incorrect. The rank of last candidate selected from general category was 598 whereas the position of the applicant in the general ranking was 1629.

5. In view of the above we find no justifiable reason to interfere in the decision of the Respondents. Hence this OA is held to be without any merit and therefore, the same is dismissed by leaving the parties to bear their own costs.


(A.K. Patnaik)
Member(Judicial)


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