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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK.

O.A No.416 of 2012

Cuttack this the 16th day of July, 2014

Sri Sushil Kumar Behera...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ?


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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Cuttack this the 16th day of July, 2014

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Sri Sushil Kumar Behera

Aged about 34 years

S/o.Sarangadhar Behera

At present working as Fitter General

Qr.No.33283/3rd Type-III

Ordinance Factory, Badamal, Bolangir

...Applicant

By the Advocate(s)-M/s.S.Mohanty

S.N.Moharana

S.Routray

S.R.Mohapatra

N.Tripathy

S.R.Mohanty

-VERSUS-

1. Union of India, Ministry of Defence,
Ordnance Factory Board
Represented through its Director General
10-A, Saheed Kudhiram Bose Road, Kolkata

2. The General Manager
Ordnance Factory, Badmal,
Bolangir

...Respondents

By the Advocate(s)-Mr.U.B.Mohapatra

Mr.D.K.Behera



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ORDER**R.C.MISRA, MEMBER(A):**

Applicant presently working as Fitter General under the Respondent-Organization, has approached this Tribunal seeking the following relief.

“Let this Hon’ble Tribunal be pleased to hold the applicant being entitled to appear the LDC Examination held for the purpose of filling up the posts of Chargeman and be pleased to hold the Diploma Certificate issued by IME (India) being valid for the LDC Examination and pass orders as deemed fit and proper under the circumstances of the case”.

2. Shorn of unnecessary details, it would suffice to mention that while working as Fitter General/SS, in response to an advertisement issued by the Respondent-Organization for filling up the post of Chargeman reserved for departmental candidates, applicant had submitted his application for the same. Since he was apprehensive of not receiving any call letter for appearing at the interview that was scheduled to be held on 02.06.2012, a representation is said to have been preferred by him with a view to appearing at the interview. However, having not received any intimation, applicant has moved this Tribunal in this O.A., seeking the relief as indicated above.

3. It is the case of the applicant that having attained Diploma from a recognized Institute as per the requirement, he is eligible to sit for the LDCE.



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4. Respondent-Organization have filed their counter reply, inter alia submitting that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for both the sides and gone through the pleadings. It reveals from the record that this matter came up on 30.5.2012 for admission. This Tribunal admitted the O.A. and accordingly, directed notice to the Respondents. As an interim measure, Respondents were directed to allow the applicant to sit in the examination as per the circular dated 10.5.2012(Annexure-7) with a stipulation that the result of the examination in so far as applicant is concerned, should not be published without the leave of the Tribunal and this order of the Tribunal holds good.

6. The main thrust of the counter reply filed by the Respondent-Organization is that as per the SRO governing the field, the required qualification is three years Diploma or equivalent qualification certificate in the respective fields duly affiliated by AICTE. Since the applicant did not fulfill the above requirement, he was not considered eligible for appearing at the LDCE. In support of their contentions, Respondents have relied on the decisions of this Bench in O.A.Nos.434/2010, 253 and 254 of 2008 disposed of on 4.4.2010 and 4.4.2011 respectively, involving similar points. In addition to this, it has been urged by the Respondents that the degree/diploma education imparted by institutions like Institution of Mechanical Engineers (India) Mumbai and conduction of technical education and awarding of degree/diploma certificate is not legally valid.



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7. We have examined all aspects of the matter. Apart from the above mentioned OAs, recently, this Tribunal had also disposed of O.A.Nos.232/2011, 290/11, 294/2011, 885/11 and 398/12 on 30.6.2014 dealing with basically the same and similar point as raised in the present O.A. holding that the Tribunal lacks jurisdiction to try and adjudicate those matters. In this connection, the relevant portion of the decision of the Hon'ble Apex Court in the case of *SI Rooplal Vs Lt Governor Delhi* [C.A Nos.5363-64 of 1997 with Nos.5643-44 of 1997 decided on December, 14, 1999] – 2000 Supreme Court Cases (L&S) 213, is quoted below.

“ At the outset, we must express our serious dissatisfaction in regard to the manner in which a co-ordinate Bench of the Tribunal has overruled, in effect, an earlier Judgment of another co-ordinate Bench of the same Tribunal. This is opposed to all principles of Judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the co-ordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the Judgment of the earlier Bench but knowingly it proceeded to disagree with the said Judgment against all known rules of precedent. Precedents which enunciate rules of law form the foundations of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our Judicial system. This court has laid down time and again that precedent law must be followed by all concerned, deviation from the same should be only on a procedure known to law. A subordinate Court is bound by the enunciation of law

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made by superior Courts. A coordinate Bench of a Court cannot pronounce Judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement”.

8. Since this Tribunal has already taken a particular view on the similar questions of facts, in order to maintain consistency and uniformity and having regard to the ratio laid down by Hon'ble Apex Court in the case of SI Rooplal Vs Governor of Delhi (supra), we do not feel inclined to make a departure from the view already taken and accordingly, we hold that the Tribunal lacks jurisdiction to try and adjudicate this matter. In the circumstances, the O.A. is dismissed. No costs.

(R.C.MISRA)
MEMBER(A)

BKS

(A.K.PATNAIK)
MEMBER(J)