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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00699 OF 2014
Cuttack, this the 24th day of September, 2014

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (Judl.)
HON'BLE MR. R.C. MISRA, MEMBER (Admn.)

.....

Subash Sethi,
Aged about 28 years,
Son of Batakrishna Sethi,
At – Bidyadarpur, PO- Nayabazar,
Town/Dist.- Cuttack.

.....Applicant

Advocate(s)... M/s. S.C.Puspakal, K.C.Satapathy, A.K.Tarai, S. Nayak.

VERSUS

Union of India represented through

1. Secretary,
Ministry of Communication and Information Technology,
Govt. of India, Department of Post, Dak Bhawan,
Sansad Marg, New Delhi.
2. Director (U.P. & D.E.), Govt. of India ,
Ministry of Communication and Information Technology,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi.
3. Postmaster General,
Odisha Circle, PMG Square,
Bhubaneswar, Dist-Khurda.

..... Respondents

Advocate(s)..... Mr. U.B.Mohapatra

.....



ORDER

A.K.PATNAIK, MEMBER (JUDL.):

This OA has been filed by the Applicant seeking direction to the Respondents to publish the list of eligible candidates before the typewriting/Computer test is conducted, allow him to appear in the Computer/typewriting test scheduled to be held on 25.09.2014 on the basis of his performance in paper I test and further to direct the Respondents to consider his case for the post of Postal/Sorting Assistant under SC category as per the advertisement. By way of ad interim measure he has prayed for a direction to the Respondents to allow him to appear at the computer/typing test scheduled to be held from 25th to 28th September, 2014.

2. As it appears from the body of the petition, copy of this O.A. was received by Shri D.K.Mallick, on behalf of Mr.U.B.Mohapatra, Learned Senior CGSC for the Union of India on 16.09.2014. But none of the counsel (either for the Applicant or Respondents) are present today as they have abstained from the Court work in protest of the arrest of Mr. Ashok Mohanty, Sr. Advocate by the C.B.I.

3. However, the applicant (Subash Sethi) being present in Court has prayed that due to urgency as the computer/typewriting test is scheduled to be held from 25th to 28th September, 2014 and in view of the strike of the lawyers, he may be allowed to place his case. According, having heard him in exenso with his aid and assistance, we have perused the materials placed on record.

4. According to the Applicant he belongs to SC community. He was one of the aspirant candidates for the post of Postal/Sorting Assistant in pursuance of the advertisement dated 21.02.2014. As per the conditions



stipulated in the advertisement selection of the candidates will be subject to passing both tests consisting of written and computer/typewriting test. The candidates selected in the written test shall have to appear at the Computer/Typewriting Test. He appeared at the written test held on 27.7.2014. The answer of the question paper was released in the internet. He compared the answer sheet of the postal department with the answer given by him in the OMR and found that he has secured more than 08 marks in each categories which comes to a total marks of 66. As such, he should have been called for the Computer/Typewriting test. ~~but could not have been~~ *R*
~~called while calling others to appear at the said test.~~ His claim is that he being a SC candidate as per the advertisement is eligible to be called for Computer/Typewriting test scheduled to be held from 25th to 28th September, 2014 but wrongly he has not been called for the same. Hence he has reiterated the relief claim *ed* *l* in this OA.

5. We find that the first prayer of the applicant is for a direction to the Respondents to publish the list of eligible candidates before computer/typewriting test is held whereas in paragraph 4.11 the applicant himself has stated that the Respondents in their web site have specifically informed that candidates for Odisha circle may check their status for paper I by logging into the website and those candidates who are *sort* listed to appear in paper 2 may down load the admit cards. If it is so, we do not find any substance so as to issue direction to the Respondents to publish the list of eligible candidates as *sort* listing of candidates is within the competence of the authorities. Similarly, when the name of the applicant does not find in the list published in the web site the applicant cannot claim as a matter of *place* *l*

Alleged

right to appear at the Computer/Typewriting test merely because he was eligible as per the conditions stipulated in the advertisement and appeared at the written test. When on merit we do not find any *prima facie* case, question of granting the interim order as prayed for by him does not arise.

6. Besides, we would like to observe that the applicant approached this Tribunal without making any effort to redress his grievance before the authority in the fray of selection before filing this OA and having not done so we are constrained to state that this OA is hit by the provision of Section 20 of the A.T. Act, 1985 which *inter alia* provides as under:

“20. Application not to be admitted unless other remedies exhausted –

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the



Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

7. In the light of the discussions made above, we find no merit in this OA which is accordingly dismissed by leaving the parties to bear their own costs.



(R.C.Misra)
Member (Admn.)



(A.K.Patnaik)
Member (Judicial)

RK/CM