

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/417/2013

Date of Reserve:30.04.2019
Date of Order:03.07.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Pradeep Kumar Nayak, aged about 46 years, S/o. Late Mehswar Nayak, At-Naranasahu Lane, PO-Tulsipur, Dist-Cuttack – presently working as Telecom Mechanic in the office of the General Manager, Telecom District, Cuttack.

...Applicant

By the Advocate(s)-M/s.S.K.Ojha
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Secretary to Government of India, Department of Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110 001.
2. Chief General Manager, Telecom, Odisha Telecom Circle, Unit-III, Bhubaneswar, Dist-Khurda-751 001.
3. General Manager, Telecom District, Cuttack, At/PO-Link Road, Town/Dist-Cuttack.

...Respondents

By the Advocate(s)-Mr.K.C.Kanungo
ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has sought for the following reliefs:

- i) To allow the Original Application.
- ii) To direct the Respondents to extend the benefit of promotion to the post of Telecom Technical Asst. As reserve category candidate publishing the result and giving benefit as per the Constitutional mandate and as per Gr.C. Recruitment Rules, 2001.
- iii) To direct the Respondents to allow the applicant to take part in the promotional training course with the General candidates which is scheduled to be commenced shortly.

iv) To pass any other order/orders as deemed fit and proper in the circumstances of the case and for ends of justice.

2. Shorn of unnecessary details, it would suffice to note that while working as Telecom Mechanic, applicant had appeared the Limited Department Competitive Examination (in short LDCE) for promotion to Telecom Technical Assistant (in short TTA) in the year 2012. According to him, vide office order dated 02.03.2013, a panel was published in respect of candidates belonging to general category whereas no result was announced in respect of Scheduled Caste to which community he belongs and had appeared LDCE against a single vacant post of TTA. Applicant has pointed out that he had done fairly well in the examination, but for the reasons best known, the respondents did not publish the result concerning him nor give him promotion notwithstanding the fact that he has undergone pre-selection coaching for the post in question. Since, the respondents did not consider his case for promotion to the post of TTA, he has approached this Tribunal in the instant O.A. seeking reliefs as mentioned above.

3. Opposing the prayer of the applicant, respondents have filed their counter, to which, applicant has also filed a rejoinder. In the rejoinder, the applicant has pointed out that if at all the applicant could not secure the qualifying marks, it was incumbent upon the respondents to come forward with the marks as secured by him.

4. We have heard the learned counsels for the sides and perused records. Before considering the matter in its proper perspective, it would be profitable to quote hereunder the order dated 09.07.2018 as passed by this Tribunal.

"Heard Ld. Counsels for both sides.

Mr.S.K.Ojha, Ld.Counsel for the applicant submitted that the applicant comes under reserved category and as per rule the minimum qualifying marks in the examination for general

candidates shall be 30% in each section and 37% in aggregate and for reserved category candidates 20% in each section and 30% in aggregate. Mr.Ojha submitted that as per available records the applicant has secured 19.5 out of 50 in Section-I and 22 out of 50 in Section-II. He further submitted that as per well position of law rendered by Hon'ble Apex Court, 19.5 should be treated as 20 for all practical purposes. Therefore, the applicant's case should be considered as if he has secured 20 out of 50 in Section-I. Further, Mr.Ojha submitted that if 20 and 22 are added, then it becomes 42 out of 100. Hence, the applicant is well above the grade specified for the reserved category, i.e., aggregate 30. Whereas the applicant himself secured 42% out of 100. Therefore, his case should not be rejected and he should be given the appointment. Mr.K.C.Kanungo, Ld. Counsel for the official Respondents will continue his argument tomorrow".

5. From the above, it is clear that the applicant as against the required marks 20 out of 50 in Section-I has secured 19.5, which according to respondents, the applicant having secured less than 20% marks could not qualify the LDCE. Therefore, the sole point this Tribunal is to consider is whether the marks 19.5 as secured by the applicant could be inflated and/or rounded off to 20 in order to declare the applicant qualified in the LDCE. The applicant has not furnished any rules and/or instructions to establish that in such a contingency, the required short fall marks could be rounded off to 20. Therefore, it is not within the domain of the Tribunal to even direct the Respondents to consider to round off 19.5 marks to 20 in order to declare the applicant qualified in the LDCE. Since the applicant has admittedly secured marks less than the qualifying marks, in our considered opinion, no injustice whatsoever has been meted out to him.

6. For the reasons discussed above, the O.A. fails and the same is accordingly, dismissed. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)