

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTCAK BENCH: CUTTACK**

Original Application No. 260/00319/2019

Reserved :11/12/2020

Pronounced :21/12/2020

CORAM

**THE HON'BLE SHRI SWARUP KUMAR MISHRA, MEMBER (JUDL.)
THE HON'BLE SHRI ANAND MATHUR, MEMBER (ADMN.)**

Sri Priyabrata Sahoo, aged about 36 years, S/o. Suresh Chandra Sahoo, permanent resident of Village/Post. Balipatna, Via/PS-Pattamundai, District-Kendrapara, presently working as Electrician Gr. II, Eastern Rivers Division, Central Water Commission, Government of India, Bhubaneswar.

: Applicant

For the Applicant :Mr. S. K. Ojha, Advocate.

-Versus-

1. Union of India represented through Secretary to the Government of India, Ministry of Water Resources & River Development & Ganga Rejuvenation, Shrama Shakti Bhawan, Rafi Marg, New Delhi-110 001.
2. Director, Central Water Commission, Government of India, 2nd floor, RMCD, Seva Bhawan, R.K.Puram, New Delhi-110 066.
3. Chief Engineer, Central Water Commission, Government of India, A-13 & 14, Bhoi Nagar, Bhubaneswar, Dist. Khurda-751 022.
4. The Executive Engineer, Eastern Rivers Division, A-13/14, Central Water Commission, Government of India, Bhoi Nagar, Bhubaneswar, Dist. Khurda-751 022.

: Respondents

For Respondents: Mr. S. B. Mohanty, Advocate.

O R D E R

MR.SWARUP KUMAR MISHRA, MEMBER (JUDL.)

Shorn of unnecessary details, it would suffice to state that the

Applicant, Sri Priyabrata Sahoo, Electrician Gr. II, Eastern Rivers

Division, Central Water Commission, Government of India, Bhubaneswar has filed this Original Application u/s. 19 of the Administrative Tribunals Act, 1985 stating inter alia that after being selected through a positive act of selection, on 29/03/2011 he joined in the post of Electrician Gr. II under the Respondent-Department. It is stated that the post of Electrician Gr. II was having promotional avenues to Elect. Gr. I (HS), Assistant Foreman etc. He was at Sl.No.1 in the gradation list of Electrician Gr. II. As per the Recruitment Rules, he having completed the residency period of regular service in the feeder grade of Elect. Gr.II, was eligible for consideration for promotion to the post of Elect. Gr. I (HS) but due to reduction/abolition of the total number of posts in the promotional grade he was deprived of his right for consideration to Gr. I (HS). It has been stated that the matter was discussed in the 34th subcommittee meeting in which it was resolved that further step will be taken up after revised sanctioned strength of work charged established is received from MoWR, RD&GR (Annexure-A/4). According to Applicant, revised sanctioned strength was received in all grades whereas in so far as Elect. Gr. I (HS) no post was provided. The employees Association took up the issue through representation which was duly forwarded to the higher authority for consideration vide letter dated 18/08/2017 & 21/12/2017 (Annexure-A/5 series). There being no response, the local authorities again took up the matter with the higher authority vide letter dated 22/12/2017, 02/01/2018, 13/02/2018, 28/12/2018, 07/01/2019 and 09/01/2019 requesting for

revival/release/sanction of posts in the grade of Elect. Gr. I (HS) (Annexure-A/6 series). Further it has been stated that as against sanctioned posts of two Carpenter Gr. II which is a feeder post, two numbers of promotional posts in the grade of Carpenter Gr. I (HS) was sanctioned by the authority concerned. Similarly, when only one post of Mechanic Gr. II sanctioned in feeder grade, two posts in promotional grade of Mechanic Gr. I (HS) was sanctioned. Whereas, as against two posts of Electrician Gr. II sanctioned in feeder grade no post in promotional grade in Electrician Gr.I(HS) has been sanctioned; albeit promotional avenue of Elect II is to the post of Elect. Gr.I (HS) as per RR available which is totally unethical and foreign to the provision of Rules. In the above context, by filing the present OA the Applicant has prayed for the following reliefs:

- “(i) To admit the OA & issue notices to the Respondents;
- (ii) To direct the Respondents to modify the revised strength in the grade of Electrician Gr. I (HS);
- (iii) To declare the revision of sanctioned strength in the grade of Elect. Gr.I (HS) is bad in law;
- (iv) To direct the Respondents to consider the case of the applicant to the post of Elect. Gr. I (HS) and grant him all consequential service and financial benefits retrospectively;
- (v) To pass any other order/orders as deemed fit and proper.”

2. Respondents have filed their counter in which it has been stated that it is the look out of the Department to see that promotional avenues/career advancement are available to all the officials. In order to avoid financial hardship due to stagnation, the Government of India

introduced the scheme of MACP which guarantees career advancement to the employees during the span of 10, 20 and 30 years regular service. In case of stagnation, the applicant will also get the benefit of MACP after completion of required year of regular service. In so far as reduction/abolition of post of Electrical Gr. I is concerned it has been stated that sanctioned post of work charge cadre is subject to review from time to time depending upon the scope of work and utility of the post. While the post of Electrician Gr. II & I were very much available prior to the revision of sanctioned post in W/C cadre but while conveying the sanction of post on 01/06/2016 (Annexure-IV), some promotional posts including the post of Electrician Gr. I have been abolished. However, the Respondents have admitted in paragraph 6 of the counter that sincere efforts were made by them to get the post sanctioned, on functional justification which is under examination by CWC (HQ). Further review of work charge posts is now underway by a work study Team of ISTM as a result of which the recruitment promotion in W/C cadre has been kept on hold temporarily. In stating so, the Respondents have prayed that there being no substance in any of the contentions advanced by the Applicant this OA is liable to be dismissed.

3. Applicant has filed rejoinder in which it has been stated that had the Respondents abolished/reduced/merged the entry/lower cadre posts the Applicant could not have his say in the matter but in the instant case by way of restricting of cadres, the promotional post of Electrician Gr. I was taken away for which automatically further

promotional avenue to the post of Foreman was chocked and no one in the Electrical cadre can get the promotion. On the above ground, he has prayed for the relief claimed in this O.A.

4. Learned Counsel appearing for both sides have reiterated the stand taken in their respective pleadings and having heard them at length perused the materials placed on record.

5. In any number of cases the Hon'ble Apex Court has time and again reiterated that in every Department of the Government promotion and promotional avenues are not only encourages to its employees but also gives sufficient courage interest, enthusiasm and skill to develop in the working field and suffice to place reliance on one such decision of Hon'ble Apex Court rendered in the case of **Union of India vrs Hemraj Singh Chowhan**, reported in AIR 2010 SC 1682 in which it was held by His Lordship that right to consideration for promotion is a statutory as well as a fundamental right guaranteed under Article 16 of the Constitution of India more so when in similar situation others have the opportunity to climb the ladder in the promotional avenues. Further, it is no doubt but true that principal object of a promotion system is to secure the best possible incumbents for the higher position in public interest. The public interest is best secured when reasonable opportunities for promotion exist and really superior civil servants are enabled to move as rapidly up the promotion ladder as their merits deserve.

6. We find that after being satisfied the necessity and desirability the authorities concerned have made series of

correspondence starting from 22/12/2017, 02/01/2018, 13/02/2018, 28/12/2018, 07/01/2019 and 09/01/2019 for providing sanctioned posts in the promotional grade of Electrician Gr. I. The Respondents have come forward by stating in paragraph 6 of the counter that sincere efforts are made to get the post sanctioned, on functional justification which is under examination by CWC (HQ). Further review of work charge posts is now underway by a work study Team of ISTM as a result of which the recruitment promotion in W/C cadre has been kept on hold temporarily. Since considerable time has been elapsed in the meanwhile, Respondent Nos. 1 & 2 are hereby directed to take an informed decision on the letters dated 22/12/2017, 02/01/2018, 13/02/2018, 28/12/2018, 07/01/2019 and 09/01/2019 under Annexure-A/6 series regarding making available of the sanctioned posts in the promotional grade of Electrician Gr. I, keeping in mind the law discussed in paragraph 5 above, at an early date preferably within a period of 03 (three) months from the date of receipt of a copy of this order.

7. In the result, with the observation and direction made above, this O.A. is disposed of. There shall be no order as to costs.

(Anand Mathur)
Member (Admn.)

(Swarup Kumar Mishra)
Member (Judl.)

csk/cm