

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH

Original Application No.145 of 1987.

Date of decision : September 6 , 1988.

Sri P.S.N.Murty, son of late P.Satyanarayana, aged 38 years,
Asst. Teacher, Gr. II, S.E.Railway, Mixed Higher Secondary Sch
Kuurdha Road, P.O.Jatni, Dist- Puri.

..... Applicant.

Versus

1. Union of India, represented by the General Manager, Garden Reach, Calcutta- 43.
2. Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta- 43.
3. Divisional Railway Manager, S.E.Railway, Khurda Road, P.O.Jatni, Dist- Puri.
4. The Railway Recruitment Board, represented by the Chairman, At/P.O- Bhubaneswar, Nuapalli, Bhubaneswar, Dist- Puri.

..... Respondents.

M/s C.V.Murty & C.M.K.Murty ,

Advocates

.... For Applicant.

Mr. L.Mohapatra, Standing Counsel

(Railways)

.... For Respondents.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN
A N D

THE HON'BLE MR. K.P.ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be permitted to see the judgment ? Yes .
2. To be referred to the reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes .

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JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to be issued to the competent authority to consider the case of the petitioner for promotion to the post of Grade I teacher to teach the subject of Chemistry and also to command the respondents to give him the pay scale i.e., prescribed for Grade I Teacher for the period the petitioner had taught Chemistry in + 2 classes.

2. Shortly stated, the case of the petitioner is that he was appointed as Grade IV Teacher in Chemistry in the South Eastern Railway on 28.6.1966 and was posted at Kharagpur. In course of time, the petitioner passed B.Sc. Examination obtaining Hours' in Chemistry and was posted as Grade II Teacher in the subject of Chemistry in the South Eastern Railway Mixed High School and was stationed at Khurda Road. The school in question was up-graded and + 2 classes were opened in the said school with effect from 1984 and the petitioner was appointed to teach Chemistry subject, vide order dated 2.4.1983. In 1985 the petitioner obtained M.Sc. in degree in Oceanography with special paper/Chemistry from Berhampur University and was placed in the first class. While the school was up-graded to + 2 classes vide Annexure-3, the petitioner was sanctioned Rs.80.00 per month as a grant of honorarium for teaching Chemistry in + 2 classes and this was in addition to his normal duties and such honorarium was granted to the petitioner till a regular candidate is posted. While the matter stood thus, an advertisement was published by the Railway Recruiting Board

Bhubaneswar calling for applications to regularly fill up the posts of teacher in Chemistry in +2 classes and in response thereto the petitioner made/ application which stood rejected on the ground that the petitioner had not obtained M.Sc. degree specifically in the subject of Chemistry. Before the selection was made the petitioner approached this Bench to stay appointment of Lecturers which we did not accede to and directed that the result of the application will govern the future service benefits of the petitioner and further more it may be stated that prayer of the petitioner is to command the respondents to consider the application of the petitioner and give him an appointment if found to be suitable and further more to command the respondents that the petitioner should be given the pay scale of a Grade I teacher for having taught Chemistry in + 2 classes.

3. In their counter , the Opposite Parties maintained that the petitioner not having satisfied the eligibility criteria so far as the prescribed qualifications are concerned , rightly his application was rejected by the competent authority and in no circumstances his application can be entertained and his case should/be considered for being a teacher in the subject of Chemistry in the + 2 classes, despite his experience gained for a short period. It is further maintained by the Opposite Parties that the petitioner was not given promotion to the post of a Grade-I teacher and as a stop gap arrangement he was asked to teach the subject of Chemistry in place of Kumari Namitarani Bhowal who was transferred and due to such transfer the post remained

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vacant. It is further more maintained that the petitioner having accepted the terms offered to him, it is no longer open to him to claim regular scale of pay and he should be satisfied with the honorarium offered and accepted by him.

4. We have heard Mr. C.V.Murty, learned counsel for the petitioner and Mr. L.Mohapatra, learned Standing Counsel for the Railway Administration at some length. Mr. Murty emphatically urged before us that the Andhra University and the Berhampur University having opined that the subject of Oceanography in M.Sc. with a special paper in Chemistry could be comparable to a Post Graduate degree in Chemistry and could be fit to teach Chemistry in + 2 classes. We have carefully perused both the documents contained in Annexure-5 and 5/1. We do not find any where either of the University having stated that M.Sc. in Oceanography is equivalent to M.Sc. in Chemistry. Both the Universities have stated that a person obtaining M.Sc. degree in Oceanography with a special paper in Chemistry could be competent to teach Chemistry in + 2 classes. Equivalency in regard to a particular subject is completely different than competency to teach a particular subject and we further note that the Railway Recruiting Board having invited applications from persons who have obtained M.Sc. degree in Chemistry is the only competent authority to decide about the equivalency. We have no authority to do so. Ofcourse we have no objection if on an application filed by the petitioner, the Board re-considers the matter particularly in regard to the eligibility of the petitioner.

So far as this aspect is concerned, we find no merit in

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in the case which stands rejected .

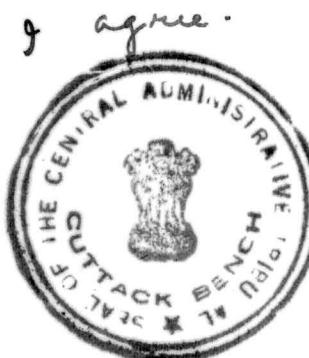
5. As regards the claim of the petitioner for a pay scale prescribed for Grade-I teacher for the period he worked as such, it was vehemently and emphatically opposed by Mr. L. Mohapatra, learned Standing Counsel for the Railway Administration and it was contended that it would be unjust and improper to give him such a pay scale after the petitioner had categorically accepted the offer of honorarium being paid to him at the rate of Rs. 80.00 per month and especially the petitioner was not given promotion to Grade-I and in case the Bench gives the petitioner such a benefit, it would open a flood gate for other officers similarly situated which would heavily tell upon the exchequer. It was therefore contended with vehemence by Mr. L. Mohapatra that the claim of the petitioner on this account should be out right rejected. We have given our anxious consideration to the arguments advanced at the Bar on this aspect. True it is that a promotional order has not been passed in favour of the petitioner but he has been asked to work as Grade-I teacher in place of one Kumari N. R. Bhowal. In the peculiar facts and circumstances of the case, we feel inclined to allow the claim of the petitioner and direct that the petitioner should be given the pay scale of Grade-I teacher for the period he has worked as such on the principle of 'equal pay for equal work' treating the petitioner as officiating in the post of Grade-I teacher. We grant this to the petitioner as a special case in view of the peculiar facts and circumstances of the case

which should not be treated as a precedent. Mr. Mohapatra further submitted that this part of the prayer of the petitioner having been allowed, it should be specifically stated by this Bench as to whether he has a right to the post of Grade-I. We are in complete agreement with Mr. Mohapatra that the petitioner cannot claim any right over the post as no right is conferred on him by virtue of the claim being allowed. Hence we direct that the petitioner be paid at the rate of the prescribed pay scale meant for Grade I teachers, for the period he has taught in the +2 classes less already drawn at Rs.80/- per month towards honorarium and we hope the amount will be paid to the petitioner within three months from date of receipt of a copy of this judgment.

6. Thus, the application is partly allowed leaving the parties to bear their own costs.

Leg. & Adm.
6/9/88
Member (Judicial)

B.R PATEL, VICE-CHAIRMAN



Ramachandran
6.9.88
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench.
September 6, 1988/Roy, Sr P.A.