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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 236 of 1987

Date of decision: November 28, 1988.

M.V.Ramana, son of M. Raghunath Rao,
A/C Mechanic in Khurda Road Division,
South Eastern Railway, At/P.O.Khurda Road,
Dist- Puri.

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Applicant.

Versus

1. Union of India, represented through General Manager, South Eastern Railway , Garden Reach, Calcutta.
2. Chief Personnel Officer (Administrative) South Eastern Railway, Garden Reach, Calcutta-43.
3. Divisional Railway Manager, South Eastern Railway, Khurda Road, Dist- Puri.
4. Divisional Personnel Officer, South Eastern Railway, Khurda Road, Dist- Puri.
5. P.K. Moharana.
6. P.Appa Rao.
7. R. Appanna.
8. S.T. Naidu.
9. R.B.Krishna Rao.
10. G.Adinarayana.

All are working under the Electrical Foreman A/C
South Eastern Railway, Puri .

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Respondents.

M/s A.S.Naidu, P.Mohanty
and P.K.Nanda, Advocates

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For Applicant.

Mr. L.Mohapatra, Standing
Counsel (Railways).

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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 local reporters are 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 .

JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the seniority position as settled by the competent authority vide Annexure-6 dated 13.5.1986 is under challenge .

2. Shortly stated, the case of the petitioner is that he is a Mechanic attached to the Air Conditioned Coach stationed at Khurda Road. Vide Annexure-5 dated 27.2.1986 a provisional seniority list was published in which the petitioner was placed against serial No.7. Objections were invited from the members of the staff i.e, other Air Conditioned Mechanics. After considering those objections, a final seniority list was published vide Annexure-6 dated 13.5.1987 in which the petitioner was placed against serial No.13 and consequently Opposite Parties Nos. 5 to 10 were given promotion for which the petitioner felt aggrieved and has filed this application with the aforesaid prayer.

3. In their counter , the Opposite Parties maintained that no illegality having been committed by the competent authority regarding fixation of the seniority of different Air Conditioned Mechanics, this application is devoid of merit and is liable to be dismissed.

4. We have heard Mr. P.Mohanty , learned counsel for the petitioner and Mr. L.Mohapatra, learned Standing Counsel for the Railway Administration at some length. We were told by Mr. Mohanty that vide Annexure-7 dated 8.6.1987, a representation was filed by the petitioner being aggrieved by the order passed by the competent

authority in placing the petitioner against serial No.13 in the final seniority list dated 13.5.1986. As yet the representation has not been disposed of. We need not have waited for disposal of the representation and we could have disposed of the case on merits but during the course of argument Mr. Mohanty came up with certain facts which need a thorough probing and without which it would be difficult for us to express any opinion because they are disputed questions of fact. Since the representation is pending we give leave to the petitioner to file another representation before the competent authority giving the detailed facts which were sought to be ventilated before this Bench and we direct the competent authority to consider the facts raised by the petitioner in his fresh representation and after giving a personal hearing to the petitioner, pass a reasoned and speaking order within two months from the date of filing of the said representation. The petitioner's counsel told us that the representation would be filed within ten days from today and therefore we direct that if the representation is not filed within the stipulated period it would not be entertained any further and the order passed vide Annexure- 6 placing the petitioner against serial No.13 would stand unaffected. We would further direct that in the meanwhile if any promotion is given then it would be subject to the result of the order passed by the competent authority on the representation filed by the petitioner. We also give liberty to the petitioner to file an application before this Bench if he feels aggrieved by the order of the competent authority and we further make it clear that

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any promotion given in the meanwhile will be subject to the result of the petition under section 19 of the Administrative Tribunals Act, 1985.

5. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

Paraswami
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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, I agree.

Paraswami 28.11.88

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Vice Chairman



Central Administrative Tribunal,
Cuttack Bench
November 28, 1988/Roy, Sr.P.A.