

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 334 of 1987.

Date of decision : April 24 1992.

R.Appa Rao                      ...                      Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. J. Patnaik,  
H. M. Dhal, Advocates.

For the respondents ... Mr. Ashok Mohanty,  
Standing Counsel (Railways)

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. C. S. PANDEY, MEMBER (ADMINISTRATIVE)

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1. Whether reporters of local papers may be allowed 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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2. Shortly stated, the case of the applicant is that he was appointed as Pump Driver with effect from 21.4.1964 and Respondent No.4 was appointed as Khalasi with effect from 21.1.1965. Further case of the applicant is that his appointment is much earlier than Respondents 5,6,g & h

according to the applicant, he has legitimate right to have been promoted to the promotional post earlier than the said Respondents.

3. According to the respondents, the applicant was appointed as Khalasi on 10.4.1964 and Respondent No.4 was appointed as Khalasi on 21.11.1963. The respondents have no dispute relating to the fact that the Respondents 5,6,g & h are junior to the applicant as Khalasi.

4. We have heard Mr.A.K.Patnaik, learned counsel on behalf of Mr.J.Patnaik and Mr.Ashok Mohanty, learned Standing Counsel(Railways). Undisputedly onus lies on the applicant to prove his own case that he is senior to Respondent when there is a dispute presented on behalf of the respondents that Respondent No.4 was appointed earlier to the applicant. There is also a serious dispute regarding the post to which the applicant had been appointed - whether Pump driver or as Khalasi. Admittedly, Respondents 5,6,g & h being junior to the applicant, sufficient reasons must be assigned as to why the applicant was superceded by way of promotion so far as these respondents are concerned. Averments finding place in paragraph 6 of the counter raises a grave doubt in our mind as to whether there are different seniority groups within one particular group prior to the merger and our doubt could not be cleared in the absence of the seniority list which ought to have been filed on behalf of the Respondents and there should have been a specific averment in this regard. Equally we would hold that the applicant has failed to discharge the onus that lies on him to substantiate his case by filing documents. We are constrained to note

that neither parties have been specific in putting up their respective cases. In such circumstances we deem it fit and proper and expedient in the interest of justice that this case should be sent back on remand to the Divisional Personnel Officer <sup>Khurda Road</sup> who should give a personal hearing to the applicant and Respondents 4, 5, 6, g & h regarding their seniority position and he should give a reasoned order as to why the applicant was superceded especially when Respondents 5, 6, g & h are appointed later. The Divisional Personnel Officer should also indicate the channel of promotion and as to whether there are different seniority list in one group. But all the same we would direct that the Divisional Personnel Officer should consider the matter from all angles and pass a reasoned order which could be subject matter of judicial review, if occasion arises.

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

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 MEMBER (ADMINISTRATIVE)

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 VICE-CHAIRMAN

Central Administrative Tribunal,  
 Cuttack Bench, Cuttack.  
 April 24, 1992/Saranghi.