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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

Original Application No. 340 of 1987

Date of decision, 1st March, 1989

1. Jaya Krushna Behera, aged about 34 years, S/o Late Raghab Behera, at present working as Junior Accounts Officer, Office of the Telecom District Engineer, Dhenkanal, P.O. & District-Dhenkanal.

.... Applicant

-Versus-

1. Union of India, represented by its Secretary, Department of Communication, New Delhi.
2. General Manager, Telecommunication, At, P.O. Bhubaneswar, Dist. Puri.
3. Telecom District Engineer, Dhenkanal, At, P.O. & District-Dhenkanal.

... Respondents

For the Applicant

M/s. Devanand Misra,
Deepak Misra, R.N. Naik
S.S. Hota, A. Deo &
R.N. Hota, Advocates

For the Respondents

Mr. A.B. Misra, Sr. Standing
Counsel (Central)

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN
AND
THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

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

JUDGMENT :-

K.P.ACHARYA, MEMBER (JUDICIAL)

III

In this application under section 19 of the Administrative Tribunals Act, 1985 the Petitioner challenges the order passed by the Reviewing authority with holding the promotion of the petitioner for 6 months contained in Annexure-6.

2. Shortly stated, the case of the petitioner is that he is now Senior Accounts Officer under the Telecommunication Department posted at Sambalpur. While he was Junior Accounts Officer in the same department ^{had} _i availed Leave Travel Concession advance of Rs.3850/- to perform his journey from Puri to Pahelgam and after completion of the journey the Petitioner had submitted ^{the} _v T.A.Bill for Rs.6375/-. The Petitioner travelled in Bharat Darsan Special Train. Further, case of the petitioner is that the concerned authority did not sanction the bill to the extent of Rs.6375/- but stated that the petitioner being entitled only to 1st class T.A. Rs.4960/- was sanctioned for payment to the petitioner and accordingly, after deduction of the amount advanced, the petitioner was paid Rs.1110/-. Later it was found that the Bharat Darsan Special Train was classless train and therefore the disciplinary authority initiated a proceeding against the petitioner for having received 1st class T.A. & that he had not spent that amount for the cost of journey in the said train in 1st Class. After receiving the report from the enquiry officer, the disciplinary authority ordered to recover the differential amount between 1st class fair and 2nd class fair. The Reviewing authority did not agree with the views of

the disciplinary authority in ordering recovery of differential amount but ordered that the promotion of the Petitioner be with-held for 6 months and therefore Annexure-6 is under challenge.

3. In their counter, the Opposite parties maintained that the petitioner having submitted a false claim, necessarily a disciplinary proceeding was initiated against the Petitioner and rightly the reviewing authority took a view which was just and proper under the facts and circumstances of the case. According to the Opp. parties the disciplinary authority had taken a most lenient view which was unwarranted under the law. Hence it is maintained by the Opp. parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra for the petitioner and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. We have also perused the averements made in the application under section 19 of the Administrative Tribunals Act and the averements made in the Counter. The fact that the petitioner has submitted T.A. bill for Rs. 6375/- and travelled by a train which did not specify any class or classes as admitted by both the parties and further admitted case of both the parties being that the petitioner had stated in T.A. bill that he had travelled by Bharat Darsan Special train, there could not be any dispute before us that the petitioner had made any false statement to gain undue pecuniary advantage from the concerned authority. On a perusal of the order passed by the reviewing authority it appears to us that the reviewing authority had

proceeded on an assumption that the petitioner had travelled in 2nd class whereas claimed T.A. for 1st class. This assumption on the part of the Reviewing authority is not correct because the petitioner has maintained that he had travelled in Bharat Darsan Special Train which does not have any specified class. From the above facts and circumstances it is clear that the petitioner had no malafide motive far less to speak of false claim or charging any higher amount. That apart Mr. Deepak Misra invited our attention to paragraph-6 of the application under section 19 and therein it is stated that M/s. R.N. Samantaray, Panchanan Barik and few others had also taken L.T.C. advance for the said period and further maintained in the application that such officials were asked to pay back the differential amount. This averment made in the application was not disputed in the Counter. On the contrary in para-4 of the Counter it is stated as follows " As regards the facts stated in para-6(c) and 6(d) of the application it is submitted that the applicant is entitled to agitate in the matters relating to him but he has no right to raise the matters of others. The case of each individual is decided on merits of each case and the disciplinary authorities are different. Hence, the decisions of disciplinary authorities will vary".

5. We are surprised to note that such an averment could be made in the counter giving unfettered discretion to any disciplinary authority to treat different employees in different manner in respect of the same nature of complaint. If such stand of the opposite parties be accepted then the Courts have to close their eyes to Article 14 and 16 of the Constitution and the judge made laws on the subject.

We never ^{expected.} ~~expected~~ such an averment from the Opposite Parties. Be that as it may, this is a clear discrimination by the authority between one employee and the other. Therefore, we feel that the order of the disciplinary authority asking the petitioner to deposit the differential amount is more appropriate than the order passed by the Reviewing authority directing withholding of promotion of the petitioner for 6 months. Therefore, we do hereby set aside the order of the Reviewing authority withholding the promotion of the Petitioner for 6 months and the order passed by the disciplinary authority directing the petitioner for payment of the differential amount is hereby restored and we direct that the differential amount should be paid by the Petitioner within one month from the date of receipt of the copy of this judgement.

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

Landry
1.3.89
MEMBER (JUDICIAL)

B.R.PATEL, VICE-CHAIRMAN

I agree.

Rathur
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VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench
1st March, 1989/Mohapatra

