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Date of decision: April 9, 1990.

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M/s. Deepak Misra,
R.N. Naik, B.K. Sahu,
Advocates.

Mr. Tahali Dalai,
Addl. Standing Counsel (Central)

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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. The case of the applicant is that he was first appointed as a Technical Supervisor Grade III in December, 1959, then promoted to the grade of Technical Supervisor Grade II in the year 1964 in which post he was confirmed on 4.6.1967. He was due to be promoted ^{as Chargeman Gr II} and he made a representation to that effect to Respondent No.1 who gave a reply stating that no panel was prepared. After that he made another representation in December, 1979 to Respondent No.2 mentioning therein that his name was there in the panel of selected candidates for promotion to the next higher grade i.e. Chargeman Grade II in the year 1969-70 but he was not given promotion. He made subsequent representations. However in the year 1982 he was promoted to the Grade of Chargeman Grade I by virtue of the order passed on 22.12.1982 though by that time his juniors in the grade of Chargeman Grade II had already been appointed as Chargeman Grade I and he was superseded. Again, in the year 1985 he made a representation to which a reply was sent by Respondents on 3.12.1986 that his case was under consideration. These are the main allegations on which the applicant has prayed for the reliefs abovesaid i.e. to give him promotional benefits from the year 1969 till upto 1982.

3. The respondents in paragraph 8 of their counter have stated that after the representation of the applicant dated 8.4.1986 was received, the question of his seniority in the grade of Chargeman Grade II was reconsidered and thereafter it was found that in 1980 his seniority had been correctly determined but in 1981 it was wrongly altered.

*See Encls
7.4.70*

Having found this defect, Respondent No.1 by his letter dated 5.6.1987 passed an order to restore the seniority of the applicant as shown in the seniority list of 1980 and to convene a review Departmental Promotion Committee to consider his case for promotion to the next higher grade on the basis of the revised seniority list. In paragraph 5 of the counter the respondents have alleged that due to want of sufficient number of vacancies the applicant could not be promoted earlier.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents. As would be manifest from the pleadings, it relates to a period much prior to three years immediately preceding the constitution of this Tribunal. Therefore, this Tribunal lacks jurisdiction to entertain the application for the reliefs claimed therein. However, as we find, the Department committed a mistake in the year 1981 which they have ^{* rectified *} rectified in the year 1987 and have earlier issued directions to convene a review Departmental Promotion Committee to consider the case of the applicant for promotion to the next higher grade. We are informed, a copy of the order is produced, that the applicant has been given promotion to the rank of Assistant Foreman with effect from 15.3.1983. On reading the counter of the respondents, it would be noticed that the respondents found their mistake and tried to rectify. We have no materials before us as to whether prior to 15.3.1983 there

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was any vacancy so that the applicant could be promoted but in view of what we have stated on question of limitation we are unable to go further. While disposing of this case, we would simply express a hope that the Department would consider the representation that may be filed by the applicant, on its own merits having regard to his seniority position and availability of posts.

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

Rm. M. M.
..... 9.4.90
Vice-Chairman



M. S. S. S.
..... 9.4.90
Member (Judicial)