

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.128 of 1988.

Date of decision : August 28,1990.

A.T.Rao

Applicant.

Versus

Union of India and others ...

Respondents

For the applicant ::: In person.

For the respondents:: Mr.Tahali Dalai,
Addl. Standing Counsel
(Central)

C O R A M:

THE HONOURABLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.N.SENGUPTA, MEMBER(JUDICIAL)

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.

J U D G M E N T

N.SENGUPTA, MEMBER(J) This application is for the reliefs of implementation of the judgment passed by this Tribunal in O.A.199 of 1986, for allowing the applicant to cross his Efficiency Bar and for other consequential reliefs. Most of the facts relevant for the present case are practically undisputed. It is undisputed that the applicant entered into service as Time Scale Assistant in the Postal Department on 30.11.1963. The Central Government in the year 1983 framed Rules known as 'Time Bound one Promotion

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Scheme' in which a person who renders 16 years or more service in a Scale was to be permitted to get a higher scale provided under the Scheme. There were some departmental proceedings against the applicant and in those proceedings the applicant was inflicted some punishments mostly stoppage of increments. We need not refer to all those disciplinary proceedings in detail. On 8.1.1986 the Post Master General, Orissa, Bhubaneswar issued memo No. ST/26-5/84 for promoting a number of persons under the Time Bound one Promotion Scheme subject to the condition that no disciplinary or vigilance case was pending and no penalty was current against any official. The applicant was not given promotion. So, he approached this Tribunal for appropriate reliefs by filing O.A. 199 of 1986. The stand of the respondents in that case was that due to pendency of the proceedings the promotion of the applicant was withheld and deferred till the enquiry came to an end. However this Tribunal ordered the applicant to be promoted forthwith to the higher scale of Lower Selection Grade under the Time Bound one Promotion Scheme with effect from the due date when others were promoted. Thereafter, the order of promotion was made vide Annexure-1 promoting the applicant with effect from 30.11.1983. But he was allowed to cross the efficiency bar in the lower scale at the stage of Rs. 420/- with effect from 1.12.1984 vide Annexure-4. The grievance of the applicant is that he was entitled to cross the efficiency bar at that stage with effect from 1.12.1982 and he having been allowed to cross the efficiency bar on 1.12.1984 has suffered

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financial loss.

2. The respondents in their counter have averred about the previous disciplinary proceedings till upto 31.5.1978 and have filed annexures R-1 to R-7 in connection with those proceedings. Their case is that on 20.7.1982 the order of stoppage of increment for six months was passed in a disciplinary proceeding (vide Annexure-R-8). As the punishment awarded was current on 1.12.1982, the applicant could not be allowed to cross the efficiency bar. After the disposal of that proceeding on 29.9.1983 the applicant was again charged with dereliction of duty and the final order imposing punishment of withholding of one increment for six months without cumulative effect was passed on 31.12.1983. Having stated thus, the respondents maintained that as punishments were current or disciplinary proceedings were pending on the due dates, the applicant was not entitled to an order for crossing the efficiency bar.

3. We have heard the applicant in person and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents, and perused the annexures. No doubt it is true that there is rule which relates to crossing of efficiency bar, an extract of which has been given in Annexure-2 to the application. On reading Annexure-2 no condition of not allowing a person to cross the efficiency bar during the currency of punishment imposed in a disciplinary proceeding could be found. However, for what we are going to state below we need not address ourselves to the questions whether crossing

*Mr. Singh
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of Efficiency Bar could be withheld during the currency of a punishment in a disciplinary proceeding if the other conditions for such crossing are satisfied. It has been stated above that the applicant was promoted to higher scale in the Lower Selection Grade with effect from 30.11.1983, ofcourse under the Time Bound One Promotion Scheme. For such promotion what are to be looked into is to be found from Annexure-R-10. From that annexure it would be found that Heads of Circles are to convene Departmental Promotion Committee meeting which would be constituted in accordance with the instructions applicable to the different cadres and the Committee would assess the fitness of the identified officials for promotion to the higher scale of pay. We have underlined the word 'fitness' to bring into sharp focus the fact that no person found unfit could be promoted even though he might have completed 16 years or more service in the scale. It would really be anomalous to say that a person is fit to be promoted yet unfit to cross the efficiency bar at ~~the~~ a later stage. A person could only be promoted if he is found efficient and fit, therefore, in this view of the matter we would say that the applicant would be entitled to cross the efficiency bar at the stage of Rs.420/- in the scale of pay of Rs.260-8-300-EB-8-340-10-360-12-420-EB-12-480/- with effect from the date of his promotion i.e. 30.11.1983. The fixation of his pay in the promotional post be made taking that to be the date of his crossing the efficiency bar in the lower scale but

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however to avoid administrative difficulties, the next date of increment would be 1.12.1984.

4. This application is accordingly disposed but however in the circumstances of the case, there would be no order as to costs.

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Vice-Chairman 28.8.90



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Member(Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 28, 1990/Saranggi.