

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

Original Application No.150 of 1988

Date of Decision 15.7.1992.

Y.Seshagiri Rao / Applicant

Versus

Union of India & Others Respondents

For the applicant M/s-Ganeswar Rath
P.K.Mohapatra,
Advocates

For the respondents Mr.L.Mohapatra,
Standing Counsel
(Railways)

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C O R A M

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

AND

THE HONOURABLE MISS USHA SAVARA, MEMBER (ADMN)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? Ans
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original application No. 150 of 1983.

Date of decision:

Y.Seshagiri Rao

Applicant.

Versus

Union of India and others ... Respondents

For the applicant ... M/s. Ganeswar Rath,
P.K. Mohapatra, Advocates.

For the respondents ... **Mr. L. Mohapatra,**
Standing Counsel (Railways).

C O R A M :

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

AND

THE HONOURABLE MISS USHA SAVARA, MEMBER (ADMN.)

JUDGMENT

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to direct the respondents to post the applicant as a Diesel Cleaner in the Loco Foreman Diesel, Bandamunda and to direct the respondents to fix his pay taking into consideration the increments due to him and to direct the respondents to pay to the applicant in the revised scale and so also to promote the applicant to the next higher post with effect from the date his juniors were promoted.

2. Shortly stated, the case of the applicant is that he was appointed as Diesel Cleaner under the Loco Foreman, Diesel on 2.3.1974 by the Divisional Mechanical Engineer,

South Eastern Railway, Bandamunda and was posted at

Bandamunda with a pay scale of Rs.196-232/-, While the applicant was serving as such, a proceeding under rule 14(2) of the Railway Discipline and Appeal Rules was initiated against the applicant and ultimately he was removed from service. The order of removal was challenged in T.A. 173 of 1986 disposed of by this Bench on 18.11.1986. In the said judgment the Bench set aside the termination of the services of applicant and directed that two future increments of the applicant be stopped with cumulative effect. The grievance of the applicant is that the applicant has been reinstated to the post of a Shed Khalasi carrying the pay scale of Rs.196-232/-. According to the applicant, though the pay scale may be same yet he should have been reinstated to the post from which he was removed.

3. In this case, no counter has been filed for the reasons best known to the respondents and though Mr.L. Mohapatra submitted on 4.2.1992 seeking for a further adjournment to file counter, we rejected his prayer for the grounds stated in the ordersheet.

4. We have heard Mr.Ganeswar Rath, learned counsel for the applicant and Mr.L.Mohapatra, learned Standing Counsel for the Railway Administration in full. Even though no counter has been filed yet heavy onus lies on the applicant to substantiate his case failing which the application is bound to be dismissed. Relying on the judgment passed in T.A.173 of 1986 learned counsel for the applicant urged that once the order of removal is set aside it would be deemed that the applicant is continuing in the post from which he was removed and it was therefore, incumbent on the respondents

to reinstate the applicant to the post from which he was removed. On the other hand, it was contended by Mr. L. Mohapatra with great emphasis that according to the applicant the pay scale of Diesel Cleaner was Rs.196-232/- and the same scale of pay is prescribed for a Shed Khalasi. Hence, there being no difference in pay in respect of both these posts, the applicant's grievance is not sustainable being ill-founded. We are not in agreement with the submission of Mr. L. Mohapatra because under the law a Government employee removed from a particular post is bound to be reinstated to the very same post after his termination order is set aside irrespective of the consideration regarding the pay scale. Therefore, we find that there is substantial force in the contention of Mr. Ganeswar Rath that the applicant should have been reinstated to the post of Diesel Cleaner. Once the applicant is reinstated ^{to} in the post of Diesel Cleaner the revised pay scale in respect of the said post prescribed at different intervals must be paid to him. Accordingly, we do hereby direct that the applicant be deemed to have been reinstated to the post of Diesel Cleaner and the pay scale revised from time to time should be calculated and paid to the applicant within a period of 60 days from the date of receipt of a copy of this judgment.

5. So far as the promotional posts are concerned, the case of the applicant should be considered for promotion to the next higher post/posts and in case the applicant is found to be suitable, such promotions should be given to the applicant with effect from the date on which

his juniors were promoted. This part of the judgment should also be implemented within 60 days from the date of receipt of a copy of this judgment.

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

..... MEMBER (ADMN.)

VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack



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L. G. C. *QMB*
15/7/1921
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VICE-CHAIRMAN