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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.267 of 1988.

Date of decision: November 28, 1989.

Sushanta Kumar Mohanty, aged about 28 years,  
son of Udayanath Mohanty, At present working  
as Fireman, Grade I, INS Chilka, At/P.O.Chilka,  
Dist.Puri.

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Applicant.

Versus

1. Union of India,  
represented by its Secretary,  
Ministry of Defence, New Delhi.
2. Director of Civilian Personnel,  
Naval Headquarters, New Delhi.
3. The Flag Officer Commanding-in-chief,  
Headquarters, Eastern Naval Command,  
Visakhapatnam.
4. Commanding Officer, INS Chilka,  
At, P.O.Chilka, Dist.Puri.

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Respondents.

For the applicant : M/s. Devanand Misra,  
Deepak Misra,  
R.N.Naik, Advocates.

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

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C O R A M:

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

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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.

JUDGMENT

B.R.PATEL, VICE-CHAIRMAN, The facts briefly stated are that the applicant was appointed as Fireman Grade II in the Office of the Respondent No.4 on 19.9.1980 on regular basis. He was declared quasi-permanent with effect from 19.9.1983 vide Annexure-1 and was promoted to Fireman Grade I with effect from 1.4.1987. The next promotion was to the rank of Leading Hand Fire (Ordinary Grade) i.e. L.H.F.(OG) which is a Group 'C' post. The applicant was required to appear before a Departmental Promotion Committee when it sat on 12th and 13th October, 1987 for considering the case of the applicant for promotion. The Departmental Promotion Committee did not find the applicant fit for promotion as he did not satisfy the prescribed physical standard. The applicant has prayed that he should be given promotion to the post of L.H.F.(O.G.) retrospectively from October, 1987.

2. The respondents have maintained in their counter that no illegality has been committed in denying the applicant promotion to the higher rank of L.H.F.(O.G.) because of the requirement of the Rules for physical fitness.

3. We have heard learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel (Central) and perused the papers. On going through the counter filed by the respondents we find that the respondents have admitted that the physical standard prescribed was applicable only to the direct recruits and not to promotees. The respondents have further stated in their counter that they are considering the case of the applicant for promotion. In view of these facts we direct that the case of the applicant should be considered for promotion within two months from the date of receipt of a copy

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of this judgment.

We are not inclined to accept the prayer of the applicant for retrospective effect as he has not officiated in the promotional post and as there is no allegation of any junior having been promoted.

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



N. SENGUPTA, MEMBER (J)

I agree.

*.....* 28/11/89  
Vice-Chairman

*N. Sengupta* 28/11/89  
Member (Judicial)

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
November 28, 1989/Sarangi.