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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

Original Application No. 269 of 1988.

Date of decision: February 15, 1990.

Raghunath Jali @ Jally ...

Applicant.

Versus

Union of India and others ...

Respondents.

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

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

C O R A M:

THE HON'BLE MR. P. S. HABEEB MOHD., MEMBER (ADMINISTRATIVE)

A N D

THE HON'BLE 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) The applicant who is now working as Fire Engine Driver Gr. II has prayed for a direction for promoting him to Grade I of Fire Engine Drivers in I.N.S. Chilka. The facts material lie in a short compass. Undisputedly the applicant was

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appointed as Fire Engine Driver Grade II in 1982 and became quasi-permanent in December, 1985. He came within the zone of consideration for promotion to the grade of Fire Engine Drivers Grade I and in fact he appeared before the Departmental Promotion Committee on the 12th and 13th October, 1987 but he was not selected only on the ground that his height was less than the prescribed minimum. The applicant has prayed for promotion with retrospective effect.

3. The respondents in their counter have alleged that prior to the receipt of clarification from the Headquarters of Eastern Naval Command, the standards applicable to direct recruits were also being insisted on for departmental candidates to be appointed on promotion, but after the clarification was received, ^{case of the} steps have been taken to consider the applicant for promotion to the post of Fire Engine Driver Gr.I, but it cannot be made retrospective.

3. We have heard learned counsel for the applicant and Mr. Tahali Dalai, learned Addl. Standing Counsel (Central) for the respondents. As is evident at present there is no dispute that the applicant ought to have been considered for promotion to the post of Fire Engine Drivers Grade I but under a mistaken notion he could not be promoted. There was absolutely no malafide on the part of the respondents. Courts or Tribunals do not exist to meet out the punishments for bonafide mistakes. Such a case also came up before this Tribunal in an original application which was numbered as O.A.267 of 1983 and was decided on 28.11.1989. To that decision one of us was a party. We do not

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find any reason to differ from the conclusion reached there with regard to the claim of the applicant to get retrospective promotion. There is undisputedly a difference in the magnitude and responsibility in the works of Fire Engine Driver Grade II and Fire Engine Driver Grade I. So as the applicant before he is actually promoted could not work in Grade I, he would not be entitled to retrospective promotion. We allow the application to the extent that the applicant be considered afresh, within two months hence, by the appropriate committee for promotion to Fire Engine Driver Grade I. There would be no order as to costs.

P.H. 15/2/1990

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Member (Admn.)

Res. Enq. 15.2.90.
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Member (Judicial)

