

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 402 of 1988

Date of decision 12th May, 1989

1. K.K.Kumaran S/o K.Kunjunny,
Assistant Engineer (Re-Girdering)
S.E.Railway, Cuttack.

..... Applicant

-Versus-

1. Union of India through the
General Manager, S.E.Railway,
Garden Reach, Calcutta-43.

2. Chief Personnel Officer,
S.E.Railway, Garden Reach,
Calcutta-43.

..... Respondents

For the Applicant. ... Mr. G. A. R. Dora, Advocate

For the Respondents ... M/s. Bijay Pal, Senior Standing
Counsel (Railway Administration)
& O.N. Ghosh, Advocates

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN
AND
THE HON'BLE MR. K. P. CHARYA, 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.

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:- JUDGMENT :-

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunal's Act, 1985, the Petitioner prays to direct the Opposite Parties to promote the applicant with effect from the ^{date} on which his juniors were promoted with consequential benefits and the impugned order is arbitrary and violative of Arts. 14 and 16 of the Constitution of India and it is further prayed that Annexure-9 be quashed.

2. Shortly stated that the case of the Petitioner is that he is an Asst.Engineer under the S.E.Railway posted at Cuttack. For the purpose of regularisation in the post of Asst.Engineer under the prescribed rules one has to sit for written test and appear in a viva-~~voce~~ test which was held and in consequence thereof a panel was prepared in the year 1977. The panel contained names of 80 officers in the grade of Asst.Engineer, and the petitioner was placed against Sl.No.66. In the year 1979 another panel of similar nature was prepared after different officers took the written test and appeared at the Viva-Voce test. Grievance of the Petitioner is that though he had been placed against Sl.No.66 in the panel for 1977 yet officers placed below him have been directed to work in a higher post namely in the post of Divisional Engineer and some officers from 1979 panel have also been asked to look after the work which has to be discharged by the Divisional Engineer on adhoc-basis entitling each such officer's charge allowance of Rs.150/- per month.

in addition to the scale of pay prescribed for an Asst. Engineer. The Petitioner feels aggrieved because his case has been completely overlooked and according to the Petitioner he is legitimately entitled to get such advantage which has been given to his juniors both in the panel of 1977 and 1979. Hence this application with the aforesaid prayer.

3. In their Counter the Opposite parties maintained that such a promotion if at all could be called as promotion has been given purely on adhoc basis to look after the work without giving them the higher scale of pay and without any right to the post accruing in their favour. Juniors to the Petitioner both in the panel of 1977 and 1979 were given this work because of local adjustment. There being no malafide intention in the matter and the interest ~~of~~ ^{place} the Petitioner not being in jeopardy and while regular absorption would take ^{the} the case of the Petitioner will be duly considered for regular promotion to the post of Divisional Engineer. At this stage there is no legitimate ground for the Petitioner to feel aggrieved and therefore the case being devoid of merit ~~and is~~ liable to be dismissed.

4. We have heared Mr. G. A. R. Dora, learned Counsel for the Petitioner and Mr. B. Pal, learned Senior Standing Counsel for the Railway Adminstration at some length. The admitted facts are that the petitioner had taken the written test in the year 1977 and after appearing in the Viva-voce test the Petitioner was placed against Sl. No. 66 in the panel. It has not been denied either in the Counter or by Mr. Pal, Senior

Standing Counsel Railway Adminstration that Officers below the Petitioner namely Sl.No.66 in the panel of year 1977 and some officers in the panel for year 1979 have been asked to look after the work of the Divisional Engineer on a payment of Rs.150/- which familiarly ^{known} ~~known~~ as charge allowance vide Annexure-9. True it is that officers chosen for this purpose and working as such in the post of Divisional Engineer is purely on adhoc basis without drawing the scale of pay of Divisional Engineer. But from Annexure-9 we find that a charge allowance of Rs.150/- is being paid to each of the incumbents who have been incharge of such post ^{vide Annexure-9}. Payment of Rs.150/- is undoubtedly an extra emolument. Mr. Dora took us through the different annexures in which high commendations have been paid to the Petitioner by no less persons than the General Manager and Deputy General Manager. We feel that probably the case of the Petitioner has been over looked ^{inadvertently}. There is absolutely no malafide intention. We cannot subscribe to the view that the case of the petitioner should have been over looked. We find no justifiable reason to deprive the petitioner of the charge of allowance of Rs.150/- especially in these hard days. Therefore, we would direct that the petitioner be given charge of the post of a Divisional Engineer to look after the work of the Divisional Engineer on adhoc basis with the same terms and conditions as given to the incumbents mentioned in Annexure-9 and we further direct that this should be done within two months from the date of receipt of a copy of this judgement, if not earlier.

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

*legally yours,
12/5/89.*

.....
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN

I agree.

*Armen
12.5.89*
.....
VICE-CHAIRMAN



Central Administrative Tribunal
Cuttack Bench: Cuttack

12th May, 1989/Mohapatra