

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.408 of 1988

Date of decision: September 10, 1990.

Narayan Prasad Rout ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.Devanand Misra,
Deepak Misra,
Anil Deo, Advocates.

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

B.R.PATEL, VICE-CHAIRMAN, The applicant is a Lower Selection Grade Official in the Postal Department. His grievance is that he has not been promoted on ad hoc basis to the cadre of Higher Selection Grade II (Postal) though his juniors, i.e. Respondents 3 to 9 have been promoted vide Annexure-1. His prayer is that the order of promotion vide Annexure-1



should be quashed and he should be promoted to officiate in the cadre of H.S.G.II.

2. The respondents have maintained in their counter that there were serious charges and investigation were on against the applicant for which the Department did not consider it advisable to promote the applicant on ad hoc basis.

3. We have heard ^{Mr. R. N. Naik,} learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents and perused the papers. Admittedly investigation for certain charges against the applicant was on on 2.12.1988 when the ad hoc promotion was given to Respondents 3 to 9. Learned counsel for the applicant argues that the applicant should not have been deprived of the ad hoc promotion because the disciplinary proceeding had not infact commenced by then as charges had not been served on him. This was in accordance with the judgment of a Full Bench of this Tribunal in the case of K.Ch.Venkata Reddy & others vrs. Union of India and others, reported in 1987(2) SLJ 117(CAT), which lays down that the date of commencement of the proceeding should be the date when charges were served on the delinquent. Mr. Tahali Dalai has brought to our notice Office memorandum No. 22011/1/79-Estt(A) of the Government of India, Ministry of Home Affairs, Department of Personnel & Administrative Reforms dated 30th January, 1982 which stipulates that sealed cover procedure should be followed in cases where investigations are on or

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disciplinary proceedings are contemplated and as such as on 2.12.1988 the starting of disciplinary proceeding was contemplated and investigation had commenced the applicant had no case and the action of the Department should not be unsettled. We have found Respondents 3 to 9 have been given only ad hoc promotion. Ordinarily for adhoc promotion the cases of senior officers should be considered even though there were some charges pending. As 7 persons have been given ad hoc promotion we are convinced that there are 7 regular vacancies which could be filled up on regular basis. Steps should therefore be taken within a month from the date of receipt of a copy of this judgment to convene a Departmental Promotion Committee meeting to consider the cases of all eligible candidates including the applicant. The recommendation relating to the applicant should be kept in the sealed cover as per the prescribed procedure till the disciplinary proceeding is concluded and in the meantime he should be given ad hoc promotion against one of the posts. We do not consider to quash Annexure-1 since the junior most will go if there is no other post to accommodate the applicant and their rights should be worked out later on.

4. This application is accordingly disposed of but however there would be no order as to costs.

M. S. Singh
 10/2/90
 Member (Judicial)



Amresh
 10-9-90
 Vice-Chairman

Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 September 10, 1990/Saranghi.