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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No.157 of 1989.

Date of decision : May 24, 1989.

Shri Ajit Kumar Das, son of late Amulya Charan Das, permanent resident of Japacha, District-Howrah (West Bengal) at present working as Clock Maintainer, Grade I, South Eastern Railway, Khurda Division, residing at Quarters No.429-C, Retang colony, P.O. Jatni, Dist. Puri (Orissa). ...

Applicant.

Versus

1. Union of India, represented by the Chief Signal & Telecom Engineer, South Eastern Railway, Garden Beach, Calcutta.
2. Divisional Signal and Telecom Engineer (M), S.E.Railway, Khurda Division, At/P.O.Jatni, Dist.Puri.
3. Assistant Telecom Engineer (M), S.E.Railway, Khurda Division, At/P.O.Jatni, Dist.Puri.
4. Telecom Inspector (Line), S.E.Railway, Khurda Division, At/P.O.Jatni, Dist.Puri.

... Respondents.

For the applicant ... Mr. Pradipta K. Mohanty, Advocate.

For the respondents ... Mr. D.N. Misra,  
Standing Counsel (Railways)

C O R A M :

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

A N D

THE HON'BLE MR. K. P. ACHARYA, 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.

JUDGMENT

K.P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash Annexure-4 and to allow the applicant to work as Clock Maintainer Grade I in Khurda Division.

2. Shortly stated, the case of the applicant is that on 16th December, 1965 the applicant was appointed as Clock Maintainer and in gradual process of time, he was promoted to the cadre of Grade II and then to the cadre of Grade I, on 9.9.1986. Now, due to the abolition of the post of Clock Maintainer Grade I, the applicant's services are being placed in the Telecom Department as Telecom Maintainer Grade I stationed at Khurda Road. As a result of such posting, the applicant has to undergo a training course ~~familiarly~~ known as conversion course and for that, the applicant has <sup>a</sup> grievance for which he has filed this application with the aforesaid prayer.

3. In their counter, the respondents maintained that since the post of Clock Maintainer Grade I has been abolished by the Government (which the Government has a right to do), the competent authority had no other option but to give a posting to the applicant in the post of equal scale of pay and other benefits. In such circumstances, the applicant should not feel aggrieved and therefore, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Pradipta K. Mohanty, learned counsel for the applicant and Mr. D. N. Misra, learned

Standing Counsel for the Railway Administration at some length. Mr.D.N.Misra, learned Standing Counsel for the Railway Administration submitted before us that the scale of pay of the applicant posted as Telecom Maintainer Grade I at Khurda Road not being affected in any way, he should not feel aggrieved in any manner whatsoever and more so, there being no cause of action accrued in favour of the applicant the case should be dismissed with costs. Learned Standing Counsel, Mr.D.N.Misra further submitted that the applicant would have some ~~more~~ <sup>better</sup> advantage in the new place of posting because there are ~~more~~ promotional avenues open in this post than in the post of Clock Maintainer Grade I and it was further submitted with emphasis by Mr.Misra that the Clock Maintainer Grade I post having been abolished, the competent authority was very much kind ~~enough~~ to the applicant in offering him the post of Telecom Maintainer Grade I. The headquarters of the applicant not having been changed, he should not feel aggrieved. Mr.Pradipta Mohanty, on the other hand submitted that true it is that the applicant is being given the same scale of pay but the seniority of the applicant should be maintained in the post of Telecom Maintainer Grade I carrying the same seniority from the post of Clock Maintainer Grade I. We think, this submission of Mr.Mohanty is quite wholesome. After giving our careful consideration to the arguments advanced at the Bar we are unable to accede to the request of the applicant's counsel to quash Annexure-4. On the contrary, it is hereby sustained in view of the submission made by Mr.D.N.Misra, learned Standing Counsel for the Railway Administration. We would

direct that the applicant would join the post of Telecom Maintainer Grade I at Khurda Road and he should also undergo the conversion course for the period stipulated under the Rules. We are sure the departmental authorities still stand by <sup>their</sup> promises that there would not be any change of the emoluments of the applicant specially <sup>in</sup> his pay scale in the post of Telecom Maintainer Grade I. We further direct that the seniority of the applicant in the post of Clock Maintainer Grade I shall be carried with him to the new post as Telecom Maintainer Grade I, namely the period of service rendered by the applicant in the post of Clock Maintainer Grade I shall be granted in his favour for the purpose of seniority in the cadre of Telecom Maintainer Grade I.

5. Before we part with this case, we may say that it was submitted by Mr. Pradipta Mohanty that the departmental proceeding initiated against the applicant for not joining the conversion course should be quashed. This prayer of Mr. Mohanty was stiffly opposed by Mr. D. N. Misra, learned Standing Counsel for the Railway Administration on the ground that no such prayer having found place in the application itself, the Court cannot go beyond the prayer and grant relief to a particular person which has not been asked for. We think there is substantial force in the contention of learned Standing Counsel for the Railway Administration, Mr. D. N. Misra. But without giving any specific direction to the competent authority because

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of non-inclusion of this prayer in the original application yet we would ~~say that~~ <sup>say that</sup> the competent authority may sympathetically consider this prayer of the applicant and drop the proceeding if it is so ~~observed~~ <sup>thought proper</sup> by the competent authority in view of the fact that the applicant's counsel has ~~told~~ <sup>lly</sup> us that the applicant would join the conversion course and we further feel that no fruitful purpose would be achieved by the continuance of the disciplinary proceeding. Therefore, we would say that the competent authority may consider this aspect sympathetically and pass necessary orders. The stay order passed by this Bench stands automatically vacated.

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

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..... 24.5.89  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

*Rathore*  
..... 24.5.89  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
May 24, 1989/Sarangi.

