

(9) (4)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No.203 of 1989.

Date of decision : August 8, 1989.

Sri Ghanashyam Sethi, son of Harihar Sethi,  
L.S.G. Assistant, At/P.O. Balikuda, District-  
Cuttack.

...

Applicant.

Versus

1. Union of India, represented by Director General, Posts and Telegraphs, Department, New Delhi.
2. Post Master General, Orissa Circle, At/P.O. Bhubaneswar, District-Puri.
3. Superintendent of Post Offices, Cuttack South Division, At/P.O. Cuttack-753001.
4. Sri R.C. Mohanty, at present working as Postal Assistant, Jagatsinghpur and officiating as Deputy Post Master, Jagatsinghpur Post Office, At/P.O. Jagatsinghpur, District-Cuttack.
5. Natabar Behera (I) at present working as Sub Post Master, Kanakpur Post Office, At/P.O. Kanakpur, District-Cuttack.
6. Panchanan Mallick, at present working as Sub Post Master, Rahama Post Office, At/P.O. Rahama, District-Cuttack.
7. Chaturbhuja Rath at present working as Postal Assistant and Officiating as Sub Post Master, Narsinghpur Post Office, At/P.O. Narsinghpur, District-Cuttack.
8. J.K. Adhikary, at present working as Postal Assistant, Choudwar, L.S.G., Sub Post Office, Choudwar, At/P.O. Choudwar, District-Cuttack.
9. Kulamani Bhatta, at present working as Postal Assistant, Athgarh Post Office, At/P.O. Athgarh, District-Cuttack.
10. Balunkeswar Tripathy, at present working as Sub Post Master, Athgarh College, Post Office, At/P.O. Athgarh, District-Cuttack.

...

Respondents.

For the applicant ... M/s.Ashok Mohanty,  
P.K.Parida, Advocates.

For the respondents ... Mr.A.B.Mishra,  
Nos.1 to 3 Sr.Standing Counsel (Central)  
Mr.Tahali Dalai,  
Addl. Standing Counsel (Central)

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.

-----  
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)  
-----

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, In this case filed under section 19 of the Administrative Tribunals Act, 1985, (hereinafter to be referred to as the Act), the applicant has prayed for a direction to be issued quashing the order in calling for option (Annexure-2) and the order selecting his juniors for promotion (Annexure-3) and to command the respondents 1 to 3 to promote him to the rank of Supervisory L.S.G. in the existing vacancies.

2. The facts, briefly stated, are that the applicant joined as a Postal Assistant on 25.11.1959 and was confirmed as such on 1.3.1964. His grievance was that he was not considered for promotion to Lower Selection Grade cadre
- Mr. Ashok Mohanty*

whereas his juniors were considered and given promotion. So the applicant moved the Hon'ble High Court of Orissa in a writ application which formed the subject matter of O.J.C.No.278 of 1981 which was transferred to the Central Administrative Tribunal, Cuttack Bench on operation of Section 29 of the Act. This case was registered as Transferred Application No.161 of 1986 which was disposed of on 30.9.1986. In the judgment in that case i.e. T.A. 161 of 1986 it has been ordered,

" In view of the above settled position of law, we think that a grave injustice has been done to the petitioner for not considering his case for promotion whereas his juniors have been recommended to be considered. The prayer of the petitioner is to command the respondents to treat the petitioner as promoted to the Lower Selection Grade but we cannot accede such a request because law is equally settled that the suitability of a particular Government employee must be considered by a Departmental Promotion Committee or any other authority of the like nature. "

In compliance with the directions given by this Bench in the aforesaid case, the Post Master General, Orissa Circle, Bhubaneswar vide memo No. ST/69-49/81 dated 8.12.1987

( Annexure-R-11) ordered as follows :

- " i) the name of Shri Ghanashyam Sethi, will be placed in the Circle Gradation list of LSG officials above the name of Shri Bamadev Das.
- ii) Shri Ghanashyam Sethi will be notionally promoted to LSG cadre on 7.1.1977 and his pay in LSG be fixed notionally on that date with date of next increment as 1st January each year.
- iii) Arrear monetary benefit will be given from 1.4.85, the date from which he is physically working in the LSG cadre."

*K. M. S.*

3. The respondents 1 to 3 have maintained in their counter that as the applicant has not given any option, he cannot be included in the Circle Gradation list of L.S.G. and only when his seniority in the Gradation list will be fixed, his case for further promotion or appointment to a post carrying special allowance will be considered.

4. We have heard Mr. Ashok Mohanty, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for Respondents 1 to 3. Mr. Mohanty has drawn our attention to the orders passed by the Post Master General at Annexure-R-11. This order makes it abundantly clear that the competent authority in this case, the Post Master General, Orissa Circle, has categorically ordered that the name of the applicant would be placed in the Circle Gradation list of LSG officials above the name of Shri Bamadev Das and in view of this there is no question of the applicant exercising any option so far as inter se seniority in the Circle Gradation list of LSG cadre is concerned. As regards his appointment as Supervisory LSG, Mr. Mohanty said that even in regard to his appointment no option is required to be exercised. Mr. Tahali Dalai, however has drawn our attention to Annexure-R-13 which is a copy of circular letter No. 6-4/87-SPB-II dated 1.1.1988 issued by the Ministry of Communication (Department of Posts) under the signature of Mr. S. Chadha, Director (Staff). This order lays down the guidelines for posting LSG officials against

*hmm*

supervisory posts which reads as follows :

" The question whether an LSG Official can refuse posting against a Supervisory post has been under consideration for quite some time. There are two types of Supervisory posts carrying special allowance of Rs.40/- and Rs.90/- depending upon whether the supervisor is required to supervise operative staff or LSG staff.

It has now been decided that an unwilling LSG Official will not be forced to occupy supervisory post carrying special allowance of Rs.40/- P.M. If senior most LSG Official in the division is not willing to be posted then Junior willing LSG may be posted. If no one is willing then the Junior most LSG will have to go. However posting against supervisory post carrying special allowance of Rs.90/- where the LSG supervisor has to supervise another LSG, the senior most LSG in the division will have to accept the post. "

On the basis of the circular, Mr. Tahali Dalai has argued that unless the applicant exercises his option in favour of accepting the post, supervisory post cannot be offered to him nor can he be appointed against such a post. Mr. Mohanty, learned counsel for the applicant, on the other hand has contended that this circular does not stipulate that the person concerned will be required to exercise his option. In our view, this is a trivial matter of technical nature. We do not suppose either the Department or the applicant should be so much exercised over this. The fact remains that the applicant has been working as supervisory on ad hoc basis and he should inform the Department that he is willing to continue as such. The applicant should continue as supervisory in the LSG cadre on his furnishing the above information. This information should be given to the Department within a fortnight from the date of receipt of

*Mr. Moh*

a copy of this judgment. The stay order gets merged in this judgment.

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

N. SENGUPTA, MEMBER (J)

I agree.



*[Signature]* 8.8.89  
.....  
Vice-Chairman

*[Signature]* 8.8.89  
.....  
Member (Judicial)

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
August 8, 1989/Saranghi.