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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.317 of 1989.

Date of decision : March 8,1990.

Sri Chunuram Behera Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.Akhil Mohapatra
P.C.Rout,
H.N.Mall,Advocates.

For the respondents ... Mr.L.Mohapatra,
Standing Counsel (Railways)

...

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)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *Nb*
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 facts material for this application may be stated thus:

The applicant was a Ticket Collector and he was promoted as a Travelling Ticket Examiner. He was reverted previously and against this order of reversion he filed a writ application in the High Court of Orissa

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which stood transferred to this Tribunal and was numbered as T.A.298 of 1986. In that Transferred Application this Tribunal struck down the reversion and directed that the applicant should be allowed to continue as T.T.E. In charge. The present grievance of the applicant is that the judgment delivered in that Transferred Application has not yet been implemented and further that in the meantime persons junior to him have been called to a test for selection to the post of Chief Ticket Inspector but not ~~he~~, even though he at present tops the list of Travelling Ticket Examiners in order of seniority. Making these allegations, the applicant has prayed for quashing the orders dated 12.7.1989 calling 12 persons to appear at a selection test, for quashing or setting aside the appointments of persons junior to him in service ^{as Chief Ticket Inspector} and for directing the respondents to give financial benefits as ordered in T.A.298 of 1986.

2. The respondents in their reply in counter, have not seriously disputed the fact of 12 persons having been called to appear at a selection test for the post of Chief Ticket Inspector nor have they alleged payment of financial benefits to the applicant in terms of the order passed in the previous case. Their case, in short, is that they have preferred an appeal against the judgment in T.A.298 of 1986 to the Hon'ble Supreme Court and the matter is pending there. So, they have not been able to implement the judgment or give any financial benefits to the applicant. It is not necessary to state the other facts alleged in the counter.

Manoj Kumar
8/3/90

3. We have heard Mr. Akhil Mohapatra, learned counsel for the applicant and Mr. L. Mohapatra, learned Standing Counsel for the Railway Administration. The preferring of an appeal really does not stay operation of the order and in fact as has been stated by Mr. L. Mohapatra, the Supreme Court has not passed any order staying operation of the judgment in T.A. 298 of 1986. In case, the Hon'ble Supreme Court sets aside the judgment of this Tribunal in that Transferred application, the respondents would have remedy under the principles of restitution and for pendency of the appeal there does not appear to be any justification for not giving the benefits to which the applicant has been declared entitled to by this Tribunal.

4. So far as the grievance of the applicant that he has not been called to the selection test for Chief Ticket Inspector ^{is concerned}, we would say that as by virtue of the order in the Transferred Application referred to above, he has been continuing as T.T.E. Grade-A, his seniority is to be determined taking the entire period of his continuous service in the grade of T.T.E.-Gr. A from the date he was first promoted. We direct that the applicant should be given the opportunity to appear at the selection test for the post of Chief Ticket Inspector and his suitability be determined according to his performance in that examination and if he is found fit, then he is ^{to be} deemed to ^{have been} promoted from the date his juniors were promoted or are going to be promoted.

5. This application is accordingly disposed of leaving the

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parties to bear their own costs.

.....Vice-Chairman.....

I agree.

[Signature]

8.3.96

[Signature] 8/3/96
Member (Judicial).....