

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.31 of 1989.

Date of decision **November 12, 1991.**

Surendranath Samantaray ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s. Prabir Palit,
Biswajit Mohanty,
Nagendra Patra,
U.N. Misra, B.R. Dash,
A.C. Sarangi, K.C. Pradhan,
Advocates.

For the respondents ...

M/s. B. Pal,
O.N. Ghosh, Advocates.

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. J. C. ROY, MEMBER (ADMINISTRATIVE)

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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, V.C., In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued quashing the order of reversion contained in Annexure-3 and to direct the administrative authorities of the Railways to regularise the services of the applicant and to treat him in continued service with date of his initial appointment.

2. Shortly stated, the case of the applicant is that the applicant is working as a Teacher Gr.II in the S.E. Railway Mixed Higher Secondary School at Khurda Road. Though he was initially appointed as a substitute Primary school teacher in the Oriya Medium category on 12.9.1983,

he
ultimately was promoted to the post of Teacher Grade II.

According to the applicant, his juniors were regularised though his case was overlooked for regularisation. Ultimately, the applicant was reverted to Teacher Gr.IV for which the applicant feels aggrieved and has filed this application with the aforesaid prayer.

3. In their counter, the respondents maintained that the directions given by this Bench in O.A.170 of 1988 disposed of on 15.11.1988 have been strictly followed and the representation being devoid of merit has been dismissed and regularisation of the respondents 6 to 11 was made on the basis of the fact that the applicant could not pass the test whereas Respondents 6 to 11 were found to be suitable and hence, the applicant not having been found to be suitable, was not regularised and the promotion of the applicant was purely on ad hoc basis, he was rightly reverted which should not be disturbed -rather it should be upheld.

4. We have heard Mr.U.N.Misra, learned counsel for the applicant and Mr.B.Pal, learned Senior Standing Counsel (Railways) for the respondents at a considerable length. In O.A.170 of 1988 a Division Bench of this Tribunal held that it cannot lay its hands for interference in the matter of regularisation of Respondents 4 to 7(in the said case) as the applicant had secured lesser marks than the Respondents 4 to 7. There was no allegation of malafide. Hence, the Division Bench observed that the case does not call for any interference. Due to the emphasis laid by learned counsel for the applicant the Bench had directed disposal of the representation pending consideration by

Respondent No.3 in the said case. We are told that the representation has been disposed of dismissing the same. This Bench is not competent to overrule the findings of fact arrived at by the previous Division Bench and in our opinion resjudicata operates against the present applicant. In the circumstances stated above, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

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J...
12.11.91.
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MEMBER (ADMINISTRATIVE)

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L. Sarangi
12-XI-91
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VICE-CHAIRMAN



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November 12, 1991/Sarangi.