

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original application No.459 of 1989

Date of decision : September 12,1990.

Khagendranath Mandal ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.Devanand Misra,  
Deepak Misra,  
R.N.Naik,A.Deo,  
B.S.Tripathy,  
Advocates.

For the respondents... Mr.Aswini Kumar Misra,  
Sr.Standing Counsel(CAT).

C O R A M :

THE HONOURABLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.M.SENGUPTA, MEMBER(JUDICIAL)

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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.

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, This is for the fourth time that the applicant has approached the Central Administrative Tribunal for ~~the~~ relief. For the first time, he came here in O.A.123 of 1986 seeking relief against a disciplinary proceeding which was initiated against him. In the judgment in the aforesaid case which was delivered on 7.8.1987 the disciplinary proceeding was quashed. The applicant was thereafter

*B.R.P.*

promoted as Senior Post Master but another proceeding was initiated against him and he approached the Tribunal again in O.A.51 of 1988. In this case the judgment was delivered on 17.5. 1988 modifying the punishment of stoppage of increment for ~~nine~~ months awarded in the disciplinary proceeding to one of censure. Thereafter he was reverted from the post of Senior Postmaster to his substantive rank of Higher Selection Grade I(H.S.G.I). He challenged the reversion in O.A.308 of 1987 and this Bench in its judgment dated 19.6.1989 directed the respondents that the applicant should be allowed to continue in the promotional post of Senior Postmaster on ad hoc basis since penalty of censure is no bar against promotion. After the judgment dated 19.6.1989 Respondent Nos. 3 to 15 were promoted but the applicant could not be so promoted. It is against this action of the Department promoting the Respondents 3 to 15 <sup>that</sup> the applicant has approached the Tribunal.

2. The respondents have maintained in their counter affidavit that none of the judgments delivered by this Tribunal has been flouted and the last judgment i.e. the one dated 19.6.1989 was denial of promotion to the applicant purely on ad hoc basis. This judgment in no way overruled the convening of regular Departmental Promotion Committee for consideration of cases of eligible candidates for regular promotion. According to the respondents, the Departmental Promotion Committee met on 30.8.1989, 27.9.1989 and 28.9.1989. As no irregularity has been

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committed by the Department the applicant has no case and the application should not be entertained.

3. We have heard Mr.R.N.Naik, learned counsel for the applicant and Mr.Aswini Kumar Misra, learned Senior Standing Counsel(CAT) for the respondents and perused the relevant papers. Mr.Naik, learned counsel for the applicant has contended that the applicant should not have been reverted from the promotional post which he was holding on ad hoc basis by virtue of the judgment dated 19.6.1989 and he should have been allowed to continue as such till his retirement on 31.5.1990.

Mr.A.K.Misra drew our attention to Annexure-R/1 to the counter affidavit and to paragraph 3(d) of the counter affidavit. Annexure-R/1 has been issued by the Government of India, Department of Posts dated 26.12.1989 addressed to the Chief Post Master General, Orissa Circle, It reads as follows

" Subject- Application (OA-459/89) filed by Shri K.N.Mandal against his non-selection by the 1989 DPC for Postal Service Gr.'B'.

Sir,

I am directed to refer to your d.o. letter no.ST/2-4/89 dated 12-12-89 on the above cited subject and to inform that Shri K.N.Mandal was graded 'Average' by the 1989DPC for Postal Service Group 'B'. Officers with 'Good' or better grading could only find a place in the Select Panel."

Mr.Misra has explained that this being a selection post the D.P.C. had to grade the eligible officers on the basis of their performance. As Shri K.N.Mandal was graded average he could not compete with other officers with better grading in the matter of promotion as the number of posts were limited.

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4. Mr. Naik has also averred <sup>that</sup> because of various applications filed by the applicant before the Tribunal and the relief allowed to him, the D.P.C. has awarded him a lower grading in order to forestall his promotion. We have no material to appreciate <sup>the</sup> ~~a~~ <sup>new</sup> point of Mr. Naik. However, we would like to say that the D.P.C. being an expert body ~~and~~ we cannot give any judgment supplanting the judgment of the D.P.C. We are, therefore not in a position to grant any relief in the matter of promotion of the applicant to the rank of Group 'B' gazetted. We are satisfied that the required procedure has been followed by the Department.

5. In the result, the application stands dismissed but in the circumstances of the case, the parties to bear their own costs.

*Member (Judicial)*  
 .....  
 Member (Judicial)



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

Central Administrative Tribunal  
 Cuttack Bench, Cuttack.  
 September 12, 1990/Saranghi.