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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 66 of 1989.

Date of decision : July 31, 1989.

Parsuram Dash, son of Padmanav Das,
Assistant Post Master (Accounts), Cuttack
G.P.O., P.O./Dist-Cuttack. ...

Applicant.

Versus

1. Union of India, represented by its Secretary
in the Department of Posts, Dak Bhawan,
New Delhi.
2. Postmaster General, Orissa Circle, Bhubaneswar.
3. Director, Postal Services, Sambalpur Region,
Sambalpur.
4. Senior Superintendent of Post Offices,
Cuttack City Division, Cuttack. l.

... Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N. Naik, Anil Deo, Advocates.

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

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 ? No
3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.

JUDGMENT

N.SENGUPTA, MEMBER (J) This is an application under section 19 of the Administrative Tribunals Act, 1985, seeking relief of direction quashing the order passed by the respondent no.3 on 31.1.1989 (Annexure-5 of the petition) and to allow the applicant to continue in the post he is now holding.

2. Briefly stated, the facts are that the applicant was initially appointed as a Postal Assistant. Subsequently, he was allowed to hold the post of Assistant Post Master (Accounts), Cuttack General Post Office since 29.6.1981. In 1982, a Departmental Promotion Committee sat and the applicant's case was considered but the applicant was not found suitable for that promotional post. However, he was not reverted though he was not regularly appointed to that cadre. Later, on 30.1.1983 he was appointed on regular basis under the ~~Time Bound~~ promotion scheme to the Lower Selection Grade and he continues to hold the post of Asst. Post Master (Accounts), Cuttack G.P.O. In January, 1989 again another Departmental Promotion Committee sat where the applicant's case was considered and the applicant was found not suitable for the post of Asst. Post Master (Accounts). The grievance of the applicant is that he has been holding the said post since long and further ~~under~~ the Rules, ~~it~~ did not envisage any ~~Departmental~~ promotion Committee and as such, the findings of the Departmental Promotion Committee are ultravires the jurisdiction of the Committee to pass any such orders. For what is going to be stated hereunder, it is really

unnecessary to enter into any detailed discussion as to how far the Rules debarring the sitting of a Departmental Promotion Committee for considering the promotion of a person to the rank of Assistant Post Master (Accounts), applies in the facts and circumstances of the case. Paragraph 2(g) of the counter would make matters clear.

3. In the counter in paragraph 2(g) it has been mentioned :

" It has been clarified in aforesaid letter that LSG Accountant's cadre is circle cadre, whereas the LSG supervisors selected after completion of sixteen years of service in TSPA cadre under TBOP scheme introduced with effect from 30.11.83 is divisional cadre. In absence of specific instruction on item 6 of the Directorate's letter dtd.2.6.86 referred to above (vide Annexure-R-3) as to if the LSG Accountants cadre is to be treated at par with the LSG Supervisors (under TBOP scheme), holding the DPC in regard to the promotion of LSG Accountants cadre is followed. In view of the points raised by the applicant the matter has been referred to the Directorate for clarification vide PMG Orissa letter No. ST/26-1/77 (DPC) dt. 22.3.89 (Annexure-R-4). The receipt of the clarification is awaited.

(underlining is for emphasis)

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents. For what has been just quoted above, it appears that in fact the Department has really not finally disposed of the matter. It is the submission of Mr. Deepak Misra, learned counsel for the applicant, that the applicant may be permitted to await the clarification and liberty may be given to the applicant to move this Tribunal in case any unfavourable order is passed. This is a submission which is quite reasonable. Accordingly, we are of the view that after the

clarification is received, if the applicant is reverted or any adverse order is passed against him, he will have liberty to move this Tribunal. Till the clarification is received, the applicant should not be reverted from the post he is holding.

5. With this observation the original application is disposed of leaving the parties to bear their own costs.

Member
31-7-89
 Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

B.R.Patel
31-7-89
 Vice-Chairman

Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 July 31, 1989/Sarangi.

