

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No. 240 of 1990.

Date of decision: April 29, 1992.

Muktikanta Mishra ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.G.K.Misra,
Rajib Ray,
Miss.S.Mohanty, Advocates.

For the respondents ... **Mr. Ashok Mohanty,**
Standing Counsel (Railways)

C O R A M :

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

A N D

THE HONOURABLE MR.C.S.PANDEY, 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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...

J U D G M E N T

K. P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to direct the respondents to give him promotion to the grade of T.T.E. 'A', T.T.I and C.T.I. with effect from 30.3.1983.

2. Shortly stated, the case of the applicant is that while he was functioning as Travelling Ticket Examiner, his services were terminated on 30.3.1983 resulting from a disciplinary proceeding. The applicant invoked the extraordinary jurisdiction of the Hon'ble High Court of Calcutta by filing a writ petition which formed subject matter of Civil Rule No. 5213 (W) of 1983. The Calcutta High Court by its judgment dated 5.8.1985 quashed the order of termination and further directed the respondents to pay to the applicant all his emoluments including bonus which he is entitled to under

the Rules within a period of 4 months. The grievance of the applicant ^(now) relates to his non-promotion and non-payment of his dues. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that all the dues of the applicant have since been paid and the question of promotion does not arise because none of the juniors of the applicant had been given any promotion. Furthermore it is maintained that appeal is pending in the Calcutta High Court to be taken up by the Division Bench forming subject matter of FM 3108 of 1985.

4. We have heard Mr. G. K. Misra, learned counsel for the applicant and Mr. Ashok Mohanty, learned Standing Counsel (Railways) for the respondents.

5. Before we proceed to discuss about the merits of the contentions advanced by counsel for both sides it is worthwhile to mention vide order dated 6.7.1990 prayers no.s 2 to 7 stood deleted. Hence, we now confine ourselves to prayer No.

1. Admittedly, the punishment imposed on the applicant has been set aside. Necessarily the applicant is entitled to all financial benefits and promotional benefits as if the applicant is continuing in service with effect from 30.3.1983. But from the pleadings of the applicant it is not at all clear as to whether there were any promotional posts available after 30.3.1983 and whether any of his juniors have been promoted or not and whether he had come within the consideration zone. In the absence of such specific pleadings in the petition, rightly the respondents did not have any scope or opportunity to have their say in the matter.

In such circumstances, we are unable to express any positive opinion in the matter. Therefore, we would direct that the applicant would file a representation before the competent authority making specific prayers regarding his promotion and we further direct the competent authority would consider the representation of the applicant and give him a personal hearing, if he so desires and pass a reasoned order which should be the subject matter of judicial review, if occasion arises.

6. As regards the non-payment of financial emoluments due to the applicant it is submitted by Mr. Ashok Mohanty that all dues have been paid. We would also direct that a written statement be filed before the competent authority by the applicant laying down the specific items of claims and the competent authority would pass a reasoned order according to law, within three months from the date of receipt of the representation to be filed by the applicant.

7. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

VICE-CHAIRMAN

Central Administrative
Cuttack Bench, Cuttack.
April 29, 1992/Sarangi.

