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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

Original Application No. 369 of 1990.

Date of disposal: 18.5.1993

Gatikrushna Buda ... Applicant

Versus

Union of India and others ... Respondents

For the Applicant ... M/s Devananda Misra,  
Deepak Misra,  
R.N. Naik,  
A. Deo,  
B.S. Tripathy,  
P. Panda,  
Advocates.

For the Respondents ... Mr. P.N. Mohapatra,  
Addl. St. Counsel (Central).

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CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN  
AND  
THE HONOURABLE MR. M.Y. PRIOLKAR, MEMBER (ADMN.).

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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?
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 petitioner prays for a direction to be issued to the Opposite Parties to give promotion to the petitioner to the post of Plane Tabler Grade II with effect from 1984.

2. Shortly stated the case of the petitioner is that he was appointed under the Survey of India on 9-2-1976 and was sent for 150 course (Plane Tabling) on 15-9-1976. He completed the course successfully and in due course he got promotion to Grade III Plane Tabler. The Petitioner appeared in the Limited Departmental Promotion Examination which was held on 9-6-1983 for the Post of Grade II Plane Tabler. A chargesheet dated 14th June, 1983 was served on the Petitioner and hence he was not given promotion despite his representations made to the competent authority. The Petitioner's conduct was censured resulting from a disciplinary proceeding and the petitioner was given promotion to the post of Plane Tabler Grade II in the year 1986 with effect from 1.1.1986. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the opposite parties maintained that the petitioner was chargesheeted on account of adoption of unfair means in the Limited Departmental Examination held for promotion to the post in question. Such being the situation the petitioner was not given promotion especially when his conduct was found to be unsatisfactory and thereafter the petitioner was promoted.

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4. We have heard learned counsel for the Petitioner and Mr. P. N. Mohapatra learned Additional Standing Counsel (Central) for the Opposite Parties.

5. At the outset, we must say, <sup>that</sup> the averments finding place in the pleadings of the both parties are vague. There is no mention by either parties as to when the promotion was due to the petitioner and as to whether by such date the chargesheet was delivered which is the deemed date of initiation of departmental proceeding. But the fact remains that the Petitioner had appeared in the examination held on 9-6-1983 and owing to an allegation that he had adopted unfair means in such examination within five days therefrom a chargesheet was submitted against the petitioner. The appointing authority has a discretion to either withhold promotion or to give promotion while the disciplinary proceeding is pending. In the present case, before the results were published, chargesheet was delivered to the petitioner. After the proceeding was disposed of <sup>by</sup> censuring the conduct of the petitioner, he has been given promotion. We find no illegality to have been committed by the competent authority. Hence this case being devoid of merit stands dismissed. No costs.

M. Mohanty  
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MEMBER (ADMINISTRATIVE)

K. Mohanty  
.....  
18.5.93  
VICE CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/K. Mohanty/  
18.5.93