

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 444 OF 1990

Date of decision: 12th August, 1993

Shri V. Gopalkrishna Patra ... Applicant

Versus

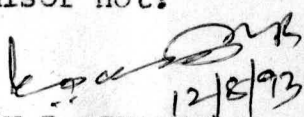
Union of India and others ... Respondents

(For Instructions)

1. Whether it be referred to the reporters or not? ☒ Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ☒ No


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

12 AUG 93


(K.P. ACHARYA)
VICE CHAIRMAN

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

For the Respondents ... Mr.Ashok Mohanty,
Standing Counsel (Rly.)

CORAM:

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

AND

THE HONOURABLE MR. H.RAJENDRA PRASAD, MEMBER (ADMN.)

J U D G M E N T

.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order passed by the competent authority reverting the petitioner to his substantive rank of Junior Clerk contained in Annexure 7.

2. Shortly stated the case of the petitioner is that he was appointed as a Khalasi on 5th February, 1980 and in course of ~~the~~ time the petitioner

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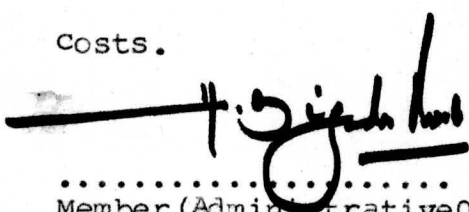
was given promotion to the post of junior clerk and on 30th April, 1984 and subsequently as Senior Clerk vide order dated 13th January, 1987. All these promotions were on adhoc basis. Vide order dated 16th November, 1990 contained in Annexure 7 the petitioner has been reverted to the post of Junior Clerk. Hence this application has been filed with the aforesaid prayer.

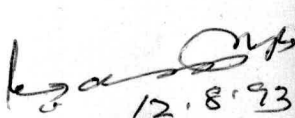
3. In their counter, the Opposite parties maintained that the promotion of the petitioner to the post of Senior Clerk is purely on adhoc basis vesting no right on the petitioner and there has been a clear stipulation in the promotional order contained in Annexure 2 that the petitioner will continue as a Senior Clerk purely on adhoc basis till regular incumbents are posted as Office Clerk and thereafter in view of the fact that the petitioner had not yet passed the departmental tests for making one eligible to be appointed on regular basis, the reversion order was rightly passed and should not be disturbed.

4. We have heard Mr. B. S. Tripathy learned counsel for the petitioner and Mr. Ashok Mohanty learned Standing Counsel for the Railway Administration. The moot question that needs determination as to whether the promotion was given on adhoc basis or on regular basis. The undisputed fact is that the promotion was given on adhoc basis and from Annexure 2 it is found

that the petitioner will continue so long as regular incumbents do not come and join the post in question. That apart in order to make one eligible to the post of a Senior Clerk, certain departmental tests have to be conducted and incumbents have to appear in the test and turn out successful. There is no contradiction to the averments finding place in the counter that the petitioner has not turned out successful in the test. This fact was also not disputed before us. Therefore in the peculiar facts and circumstances of the case, we find that the prayer of the petitioner is devoid of merit and Annexure 7 cannot be quashed. Hence it is sustained.

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


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Member (Administrative)
12 AUG 93


12.8.93
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty
August 12, 1993.