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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO:128 OF 1991

Date of decision: February 17, 1994

Padma Charan Mohanty

...

Applicant

Versus

Union of India & Others

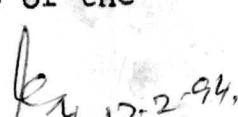
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Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *NO*


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)


(K.P. ACHARYA)
VICE CHAIRMAN

17 FEB 94

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Padma Charan Mohanty	Applicant
versus		
Union of India & Others	...	Respondents
For the Applicant	... Mr. D. P. Dhal Samant, Advocate	
For the Respondents	... Mr. Aswini Kumar Misra, Senior Standing Counsel (CAT)	

CORAM:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
&
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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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 the Opposite Parties to give promotion to the Petitioner with effect from the date of publication of the result giving the petitioner all consequential service benefits.

2. Shortly stated the case of the petitioner is that ^{he} is now serving as Junior Accounts Officer in the Office of the Deputy Director Postal (Accounts) stationed at Cuttack. The petitioner had appeared in the departmental examination part II meant for the incumbents to qualify themselves for the post of Junior Accounts Officer.

In the year 1989, the petitioner was informed that he has turned out successful in the examination but no promotion was given to the petitioner soon thereafter because of a punishment ^{was} imposed on him resulting from a disciplinary proceeding. Chargesheet for imposition of minor penalty was served on the petitioner and ultimately vide order dated 27.6.1989/ was directed that one increment due to the petitioner be withheld for 18 months. Due to the currency of punishment, the petitioner was not given promotion. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintain that due to currency of punishment imposed on the petitioner it was not proper to give promotion to the petitioner to the post of Junior Accounts Officer. After the punishment order had spent its force, promotion has been given to the petitioner and therefore, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. D. P. Dhalsamant learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Senior Standing Counsel (CAT). Mr. Dhalsamant learned counsel appearing for the petitioner contended that for imposition of penalty namely withholding increment, if promotion is withheld then it amounts to a double jeopardy.

In support of his contention Mr. Dhalsamant relied upon

a judgment of the Principal Bench, New Delhi holding that withholding promotion is a punishment by itself and if promotion is withheld and simultaneously it is ordered that increment of the petitioner should be withheld, it amounts to double jeopardy. This view was taken by Division Bench of the Central Administrative Tribunal, Principal Bench, New Delhi in the case of Prem Singh Verma Vs. Union of India reported in (1993) 24 Administrative Tribunals Cases 222. This view was followed by a learned Single Judge of the Principal Bench in the case of Bhim Singh Vs. Union of India and others reported in (1993) 24 Administrative Tribunals Cases. We are in respectful agreement with the view taken by the Principal Bench. Therefore, we would direct that the petitioner, if has turned out successful, in the examination, held for this purpose as found from the communication made in the year 1989, he should give due promotion with effect from the date on which officers below him in the panel were given promotion.

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

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Member (Administrative)

17 Feb 94

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Vice-Chairman
17-2-94

Central Admn. Tribunal,
Cuttack Bench/K. Mohanty
17th February, 1994.