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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.160 of 1991

Date of Decision: 18.5.1993

Sukadev Dutta

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. B.K. Beura,
S. Sethi,
A.C. Badu
S.K. Swain,
Advocates

For the respondents

Mr. Ashok Mishra,
Standing Counsel
(Central Government)

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C O R A M:

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

AND

THE HONOURABLE MR. S.R. ADIGIE, MEMBER (ADMINISTRATIVE)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ?
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR .K .P .ACHARYA , VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner prays to quash Annexures-3,5 and 7 and to direct the opposite parties not to include the petitioner in the list of 'not eligible' panel of Assistant Engineers for 1987 and consider his case for promotion to the next higher grade in the junior scale of Indian Broadcasting (Engineer) Services including the posts of Assistant Station Engineers and Assistant Director (Engineers) for the vacancies in the year 1987.

2. Shortly stated the case of the petitioner is that he was recruited to the All India Radio Service as an Engineering Assistant with effect from the year 1970. Because of the quota system and because the petitioner was an engineering diploma holder, he was not given promotion to the next higher grade with effect from the year 1982. Some of the aggrieved persons had moved the Central Administrative Tribunal, Principal Bench, New Delhi to redress their grievances and this formed the subject matter of Transferred Application No. 729 of 1985 disposed of on 31.12.1986. This case is reported in A.T.R. 1987(2) C.A.T. 172. Thereafter the name of the petitioner was found place in the panel consisting of 262 persons for vacancies in the post of Assistant Engineers for the year 1982 vide Memorandum No.8/51/87-S dated 25/27.11.1987 issued from the Office of the Director General, All India Radio, New Delhi. This formed subject matter of Annexure-1.

According to the petitioner, he joined the post of Assistant

Engineer on 30.1.1987, but his promotion took effect from 1982 for all purposes. Vide Memorandum dated 30.3.1989, the Director General, New Delhi circulated a seniority list contained in Annexure-3 scored through the name of the petitioner placed against Sl.No. 6 to be 'not eligible' for promotion for the vacancies of the Assistant Engineer for the year 1987 and 1988; and a representation being made by the petitioner, he was informed that since the petitioner had not completed three years of regular service in the cadre of Assistant Engineer, he was not eligible for promotion to the junior scale of Indian Broadcasting Engineering Service. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the seniority and promotion etc. was reviewed in the light of the judgment passed by the Principal Bench in Transferred Application No. 729 of 1985 and therefore, the petitioner was held to be not eligible for promotion. Hence the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. B.K. Beura, learned counsel for the petitioner and Mr. Ashok Mishra, learned Standing Counsel. Before we express any opinion on the merits of the case, it is worthwhile to mention that vide order dated 20.1.1993, we had requested Mr. Beura to file complete seniority list by 22.1.1993 and Mr. Ashok Mishra, learned Standing Counsel was requested to file a memo stating the case numbers of

those similar cases pending before the Principal Bench. Neither Mr. Beura nor Mr. Mishra have complied with this order.

5. We have given our anxious consideration to the argument advanced at the Bar. The admitted position is that judgment passed in Transferred Application No. 729 of 1985 has been carried to the Hon'ble Supreme Court by the Union of India which formed subject matter of S.L.P.(Civil) 5231 of 1987. This appeal is still pending before the Hon'ble Supreme Court. No doubt the Hon'ble Supreme Court vide its interim order dated 4.5.1987 directed that pending decision of the S.L.P., the judgment dated 31.12.1986 passed by the Central Administrative Tribunal may be implemented; and according to the opposite parties, the judgment was implemented and the concerned authority has given promotion according to the eligibility criteria in compliance with the guidelines laid down by the Principal Bench. Since the main question for determination is pending consideration of the Hon'ble Supreme Court, and the Hon'ble Supreme Court being in session of the matter, we would refrain ourselves from expressing any opinion on the merits of the case. We would direct that the service prospects of the petitioner as claimed by him may await the decision of the Hon'ble Supreme Court; and the competent authority would adjudicate the grievance of the petitioner according to the judgment of the Hon'ble Supreme Court. Thus the application is accordingly disposed of, leaving the parties to bear

their own cost.

Mr. Sahoo
MEMBER (ADMINISTRATIVE)

Shri B.K. Sahoo
18/5/93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 18.5.1993 / B.K.Sahoo

