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(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

Original Application No.212 of 1991.

Date of decision : August 24, 1993.

Bechana Oraon

...

Applicant.

versus

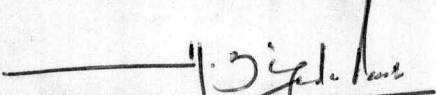
Union of India and others ...

Respondents.

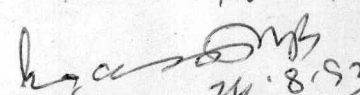
(FOR INSTRUCTIONS)

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)

24 AUG 93


(K. P. ACHARYA)
VICE-CHAIRMAN.

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.212 of 1991.

Date of decision : August 24, 1993.

Bechana Oraon ... Applicant.

versus

Union of India and others ... Respondents.

For the applicant ... Mr.D.P.Dhalsamant, Advocate.

For the respondents ... Mr.Ashok Kumar Misra,
Sr.Standing Counsel (Central)

CO RAM:

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

A N D

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

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 for a direction to the Respondents that the applicant is deemed to have been promoted from the date of completion of 16 years of service under the Time Bound Promotion Scheme and the applicant be granted all consequential financial benefits.

2. The applicant was a postal Assistant posted at Rajgangpur. On 13.7.1988 the applicant was entitled to promotion under the Time Bound Promotion Scheme having completed 16 years of service. The applicant has been denied this promotional benefit for which he feels aggrieved and hence this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that rightly promotional benefit under the Time Bound Promotion Scheme was denied to the applicant because disciplinary proceeding was initiated against the applicant as certain allegations were made against the applicant and vide letter dated 4.5.1988 the applicant was called upon to show cause as to why the punishment should not be awarded to him. Therefore, by 13.7.1988 the proceeding was pending against him and hence he was rightly denied the benefit of promotion. Later, the applicant was given promotion with effect from 1.10.1990 and hence no illegality having been committed by the respondents, it should be held that the applicant is not entitled to promotion with effect from 13.7.1988.

4. We have heard Mr.D.F.Dhalsamant, learned counsel for the applicant and Mr.Ashok Misra, learned Senior Standing Counsel(Central). In the case of K.Ch.Venkata Reddy & others vrs. Union of India and others the Full Bench of the Central Administrative Tribunal has held that the date of delivery of chargesheet is the deemed date of initiation of the proceeding. In the case of Union of India vrs. K.V.Jankiraman etc. reported in AIR 1991 SC 2010 Their Lordships confirmed this view but in a later case i.e. Delhi Development Authority vrs. H.C.Khurana reported in JT 1993(2)SC 695 Their Lordships have laid down that the date of issue of the chargesheet is the deemed date of initiation of the disciplinary proceeding. Therefore we have absolutely no iota of doubt in our mind to hold that the proceeding was initiated against the applicant on

4.5.1988. The Time Bound Promotion Scheme being due on 13.7.1988, and by that time the proceeding having remained pending against the applicant, rightly the competent authority exercised its discretion against the applicant and held that the applicant was not entitled to promotion. Admittedly, the disciplinary authority has passed the order on 31.7.1989 that one increment of the applicant be stopped for 3 months. Therefore, the punishment has lost its force with effect from 30.10.1989. There is no statement in the counter that the applicant was given his due increment after the order of punishment was passed and it was told to us that the final orders were passed by the Director. Therefore, in such circumstances, we presume that the punishment has spent its force within a period of three months from the date of issue of the punishment order. In the circumstances stated above, we hold that the punishment has spent its force with effect from 31.10.1989. Therefore, the promotion given to the applicant with effect from 1.10.1990 should date back to 1.11.1989. Accordingly, the applicant be deemed to have been given promotion with effect from 1.11.1989.

5. Thus, this application is accordingly disposed of.

No costs.

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MEMBER (ADMN.) 24 AUG 93

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VICE-CHAIRMAN.

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
August 24, 1993/Saranghi.