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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.216 of 1991.

Date of decision : May 26, 1993.

Rabindra Kumar Mohanty ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.J.Patnaik,
H.M.Dhal,
B.B.Ray, Advocates.

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

C O R A M:

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

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THE HONOURABLE MR.H.RAJENDRA PRASAD, 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 ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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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 that the reversion of the applicant from the post of Foreman be held to be illegal, arbitrary and discriminatory and furthermore it may be declared that the post of a Foreman is very much in existence with effect from 2.2.1982 till the applicant attains the age of superannuation and orders dated 22.8.1980 and 19.2.1991 be quashed.

2. Shortly stated, the case of the applicant is that initially he was appointed as a Compositor in Government of India Press, New Delhi on 29.6.1966. Later, the applicant was promoted to the post of Mono-Key-Board Operator with effect from 22.5.1967. In the year 1975 the applicant was transferred to the Government of India Text Book Press, functioning at Bhubaneswar in the same capacity. In April, 1975 the post of a Foreman was created and the applicant's case was not considered for promotion and ultimately by virtue of the judgment passed in T.A.2 of 1989, disposed of on 15.2.1990, applicant's case was considered for promotion to the post of a Foreman and the applicant having been found to be suitable, the applicant got a promotion and ultimately the applicant has been reverted to his substantive post of Mono-Key-Board Operator which is illegal, unjust and improper and against all cannons of justice, equity and fair play. Hence this application has been

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filed with the aforesaid prayer.

3. In their counter, the respondents maintained that there is no illegality committed by the respondents in placing the applicant in his substantive post of Mono-Key-Board Operator. The judgment of this Bench passed in T.A.2 of 1989 was strictly implemented and so long as the period fixed by this Bench was ^{effective} ~~there~~, the applicant was treated as Foreman and soon after lapse of such fixed period, the applicant was bound to be reverted to the substantive post of Mono-Key-Board Operator. Hence, no illegality having been committed by the concerned authority, the case is devoid of merit and is liable to be dismissed.

4. We have heard learned counsel for the applicant and Mr. Ashok Misra, learned Senior Standing Counsel (Central) for the respondents at a considerable length. Before we express our opinion on the merits of the contentions advanced by counsel for both sides, it is worthwhile to mention that a post of Foreman was in existence from the year 1975 and as the said post was not filled up, ~~The applicant~~ was one of the claimants to the said Post. The applicant's grievance for promotion to the post of Foreman not having been redressed the applicant filed an application under Article 226 of the Constitution of India before the Hon'ble High Court of Orissa praying therein to command the Opp. parties to give promotion to the applicant. The said case was received on transfer ^{KN} under section 29 of the Administrative Tribunals Act, 1985

by this Bench and it was renumbered as T.A.2 of 1989. The transferred application was heard by a Division Bench and disposed of on 15.2.1990. In paragraph 9 of the judgment the Hon'ble Judges held as follows:

" In the circumstances of the case we direct convening of a review Departmental Promotion Committee and consider the suitability of the petitioner for promotion to the post of Foreman in July, 1977 and after the ban which really occurred for non-filling of the post, if the applicant is found fit by the Departmental Promotion Committee for promotion, supernumerary post should be created till it was abolished in 1982 and the petitioner should be given consequential pecuniary and other benefits available under the service rules. "

It is noteworthy that the present original application was filed on 5.7.1991 and it came up for admission on 9.8.1991. From the aforesaid facts and circumstances it is evidently clear that on the date of filing of the application the post was not in existence and the same had been abolished since 1982 - a finding which had been arrived at by the Division Bench and with which we are bound. Therefore, there is no escape from the conclusion that the post of Foreman had been abolished in 1983. Just because the case of the applicant had not been duly considered for promotion to the post of Foreman this Bench had held in its judgment passed in T.A.2 of 1989 that an illegality had been committed and therefore supernumerary post was ordered to be created if the applicant was found to be suitable. In Annexure-9 dated 22.8.1990 it is stated that in pursuance of the Directorate of Printing, New Delhi Office Memorandum No. 7/10/82-AI dated 27.7.90, Sri R.K. Mohanty, Mono Key Board Operator of the

Government of India Text Book Press, Bhubaneswar stands promoted to the post of Foreman for the period from 8.7.1977 to 1.2.1982 in the pay scale of Rs.425-15-560-EB-20-640/-, with effect from 8.7.1977 to 31.12.1978 and Rs.455-15-660-EB-20-760/- with effect from 1.1.1979 to 1.2.1982. It should ^{also} be ⁱⁿ ~~apparently~~ ⁱⁿ noted that this office order was passed on 22.8.1990 and the post having been abolished from 1982, supernumerary post was created to accommodate the applicant from 8.7.1977 to 1.2.1982, in compliance with the directions given by this Bench in T.A.2 of 1989. Normally the authorities could have granted proforma promotion disentitling the applicant from any emoluments being paid to him. But because of the directions given by this Bench in T.A.2 of 1989 perhaps the applicant was made entitled to the financial benefits which would have ^{been} ordinarily drawn during his incumbency as Foreman. It is also noteworthy that this office order, Annexure-9 has been endorsed to the applicant designating him as Mono-key-Board Operator. Therefore, there is no escape from the conclusion that the applicant could never had any chance of working as Foreman in the year 1990 because the post had been abolished much earlier ~~in~~ namely in 1982. In our opinion, this was only a paper transaction, awarding financial benefits to the applicant as per the directions of this Bench the authorities had no other option but to ask the applicant to cease ^{to function} ~~the charge~~ ⁱⁿ as Foreman on the very same day i.e. 22.8.1990. We do not find any illegality to have

been committed by the concerned authority in regard to the office order dated 22.8.1990. At the cost of repetition it may be stated that this office order is in strict compliance with the direction given by this Bench in the aforesaid transferred application. Therefore, the claim of the applicant to continue as Foreman is devoid of merit and cannot be allowed. Hence, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

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MEMBER (ADMIN)

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VICE-CHAIRMAN

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
May 26, 1993/Saranghi.

