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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.21 of 1991.
Date of decision: April 9, 1991.
Pravakar Das. ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
A. Deo, B. S. Tripathy,
Advocates.

For the Respondents 1 to 3 .. Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

For the respondent No.4 ... M/s. P. V. Ramdas,
B. K. Panda,
D. N. Mohapatra, Advocates.

C O R A M:

THE HONOURABLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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.

JUDGMENT

N. SENGUPTA, MEMBER (J) The applicant was working as a Supervisor under the Savings Bank Control Organisation. One Mr. H. K. Panda who was Senior Supervisor retired and on the retirement of Mr. Panda, the applicant was promoted to officiate as Senior Supervisor, in Higher Selection Grade -II and was posted to Bhubaneswar General Post Office on temporary and ad hoc basis. The applicant's case is that he was the next seniormost Supervisor and accordingly,

Mr. Sengupta

he was promoted. On 21.1.1991 an order of promotion of Respondent No.4 to the rank of Senior Supervisor, Savings Bank Control Organisation was passed and consequently an order of termination of the officiating appointment of the applicant was also passed. The applicant was ordered to be reverted to his substantive post of Supervisor, Savings Bank Control Organisation (S.B.C.O.). The applicant challenges this order of his reversion.

2. Even though in this case no counter has been filed by any of the respondents but as Respondent No.4's case in this regard could be found from Original Application No.71 of 1991, with the consent of the counsel for the applicant and Respondent No.4 we have heard this case. Ofcourse, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for respondents 1 to 3 wanted some time to file his counter but we have not thought fit to grant any time as the real contest is between the applicant and Respondent No.4.

3. We have heard Mr. Deepak Misra, learned counsel for the applicant, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents 1 to 3 and Mr. P. V. Ramdas, learned counsel for the Respondent No.4. From the recruitment rules to the posts of Higher Selection Grade II, Head Clerk (Senior Supervisor) in Savings Bank Control Organisation and pairing organisation, it would be found that the post of Senior Supervisor is a non-selection post and that the method of recruitment would be by promotion from persons in the Lower Selection Grade working in the Savings

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Bank Control Organisation. When a post is non-selection post, the promotion is to be made on the basis of seniority cum fitness and there can be no question of any personal comparison. Annexure-2 is the Gradation list of Supervisors of Savings Bank Control Organisation. The name of the applicant finds place at Serial No.4 and the name of Respondent No.4 at serial No.7. Therefore, there can be no doubt that the applicant is senior to Respondent No.4. The applicant could be superseded by Respondent No.4 only if the applicant was found not fit. To ascertain whether the Departmental Promotion Committee found the applicant unfit for the post of Senior Supervisor, Savings Bank Control Organisation we sent for the file and the minutes of the D.P.C. which have been made available to us by Mr. Aswini Kumar Misra. On a perusal of the file it is found that the applicant was sought to be superseded on the ground of there having been a case of fraud in which possibly the applicant was involved. It is further found from the file that no charge had been framed against the applicant nor was any explanation called for from the applicant. It has been consistently held that unless the memorandum of charge is served on the Government servant or his explanation is called for, no allegation against the Government servant could be taken into account for refusing promotion. We have further found that the Department being aware of the position, called upon the Respondent No.4 to show cause as to why his promotion to the cadre of Senior Supervisor, Savings Bank Control Organisation should not be cancelled. We are delivering

M. Aswini Kumar Misra
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judgment in O.A. 71 of 1991 where we are holding that the matter should be finally disposed of after considering the explanation of the applicant in that original application. We would accordingly dispose of the case by saying that Respondents 1 to 3 keeping in view the fact that the applicant was not informed of any allegation against him at the time when his chance for promotion to the grade of Senior Supervisor came, would dispose of the matter within a period of two months from the date of receipt of a copy of this judgment.

4. This case is accordingly disposed of. No costs.

..... *Postmark q. 4.9* /
Vice-Chairman

... Member (Judicial)



Central Administrative Tribunal.
Cuttack Bench, Cuttack.
April 9, 1991/Sarangi.