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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO. 319 OF 1991.

Date of decision : April 29, 1993.

Shri Ganeswar Mohanta ... Applicant

Versus

Union of India and others ... Respondents

For the Applicant ... M/s. Devananda Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy &
P.Panda, Advocates

For the Respondents ... Mr. Aswini K. Misra,
Senior Panel Standing
Counsel (Central).

CORAM :

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

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 His Lordship wish to see the fair copy of the judgment? Yes.

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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 step-up the pay of the petitioner with effect from the date on which Shri R.K. Satpathy was given the officiating promotion to the cadre of U.D.C.

2. Shortly stated the case of the Petitioner is that he joined in service as a Lower Division Clerk on 15th March, 1976 whereas Shri R.K. Satpathy joined the post of L.D.C. on 4th March, 1978 in the Postal Department. Thereafter the petitioner was promoted to the cadre of U.D.C. In the gradation list and the petitioner had also been shown senior to Shri R.K. Satpathy. According to the petitioner, he officiated in the cadre of U.D.C. from 25th November, 1980 to 23rd December, 1980 whereas Shri R.K. Satpathy officiated in the cadre of U.D.C. from 9th February, 1980 to 9th

February, 1981 and thereafter the Petitioner and Shri R.K. Satpathy were regularised in the cadre of U.D.C. with effect from 26th March, 1981. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that Shri R.K. Satpathy having been given promotion on adhoc basis to the cadre of U.D.C. from 9th February, 1980 to 9th February, 1981 which necessarily increased the pay scale of Rs. 300/- to Rs. 340/- whereas the petitioner having officiated in the U.D.C. cadre only for one month no increment was allowed to the petitioner under the rules. ~~In a~~ ^{at} Cruz, it is further maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. R.N. Naik learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned ~~Senior~~ Standing Counsel (Central). Mr. Naik learned counsel appearing for the petitioner drew my attention to the averments finding place in paragraph 4 of the counter. Therein it has been specifically admitted that the petitioner is

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senior to ~~Shri~~ R.K.Satpathy both in the cadre of L.D.C. and in the cadre of U.D.C. This position was rightly and fairly not disputed before me. True it is Shri R.K.Satpathy by a local arrangement at the place of his posting in the relevant time was given promotion to the U.D.C.cadre on officiating basis and he performed his duties as such for one year. The same arrangement was also done in the case of the petitioner at the place where he was posted but due to prevalining circumstances then at the place of posting the petitioner officiated in the cadre of U.D.C. only for a month. This was not at the fault of the petitioner. Therefore, in my opinion, the petitioner ~~being~~ ^{was} Senior to Shri R.K.Satpathy, ~~then~~ the senior person should have been taken into consideration for continuance in the promotional post of U.D.C. irrespective of the fact that the promotional post was vacant at the place of posting of Shri R.K. Satpathy. Fact remains, a gross injustice will be done to the petitioner if he is allowed to draw ~~the~~ pay lesser than his junior i.e. Shri Satpathy due to certain circumstances which were not within

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his control. Therefore, I would direct that the pay of the petitioner Shri Ganeswar Mohanta be stepped up to remain at par with his junior Shri R.K. Satpathy with effect from the date on which his junior namely Shri Satpathy was paid the higher scale of pay. Arrear, if any, be calculated and paid to the petitioner Shri Mohanta within sixty days from the date of receipt of a copy of this judgment.

5. Thus, the application stands allowed leaving the parties to bear their own costs.

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..... 29.4.93
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
29.4.1993.

