

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO:418 OF 1991

DATE OF DECISION: DECEMBER 19, 1993

AUROBINDO DUTTA RAY

APPLICANT

VS

UNION OF INDIA & 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 *No* Central Administrative Tribunals or not?

(H. RAJENDRA) PRA SAD)  
MEMBER (ADMINISTRATIVE)

10 DEC 93

(K.P.ACHARYA)  
VICE CHAIRMAN

EM 12.12.93

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Central Administrative Tribunal  
Cuttack Bench:Cuttack

Original Application No;418 of 1991

Date of decision:10th December,1993

Aurobindo Dutta Ray	....	Applicant
Versus		
Union of India and others	....	Respondents
For the Applicant	...	Mr.G.A.R.Dora,Advocate
For the Respondents	...	Mr.Akhaya Kumar Misra, Addl.Standing Counsel (Central).

Coram:

THE HONOURABLE MR.K.P.ACHARYA, VICE CHAIRMAN  
&  
THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (A)

....

JUDGMENT

K.P.ACHARYA,V.C.

In this application under section 19 of the Administrative Tribunals Act,1985, the petitioner prays to quash the promotion of Opposite Parties 3 & 4 contained in Annexure-1 and to direct the Opposite parties 1 & 2 to give promotion to the petitioner to the Post of Assistant Station Director with all consequential service benefits.

2. Shortly stated, the case of the petitioner is that he is a Producer Grade II in Doordarshan Kendra. Some Posts of Assistant Station Director fell vacant and in order to adjudicate the suitability of different incumbents, coming within the consideration zone relating to the vacancy of the year 1990, a departmental promotion committee was held on 6.5.1991

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8.5.1991. Cases of several incumbents were considered by the Committee including the Petitioner and Opp. Party Nos. 3 and 4. Promotion was ordered in favour of Opposite Parties 3 and 4 and therefore, being aggrieved by the said order, the petitioner has invoked, the jurisdiction of this Bench by filing the application under section 19 of the Administrative Tribunals Act in which the aforesaid prayer has been made.

3. In their counter, the Opposite Parties maintain that the case being devoid of merit is liable to be dismissed because cases of all the incumbents including the Petitioner and Opposite Party Nos. 3 and 4 were considered and though Opp. Party Nos. 3 and 4 are juniors to the Petitioner, they having been found to be suitable, were given promotion in supersession to the claim of the present petitioner. Hence it is finally maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. G. A. R. Dora learned counsel appearing for the Petitioner and Mr. Akshya Kumar Misra, learned Additional Standing Counsel (Central).

5. Admitted case of the parties before us is that, Opposite Party Nos. 3 and 4 are juniors to the Petitioner. Further admitted case of the parties before us is that cases of several officers were considered by the Departmental Promotion Committee including the cases of the petitioner and Opposite Party Nos. 3 and 4.

The Departmental Promotion Committee having opined that Opposite Party Nos. 3 and 4 are suitable and that the Petitioner was not suitable for the promotional post, in question, the concerned authority had no other option but to promote Opp. Party Nos. 3 and 4. Law is well settled that a particular officer cannot claim promotion as a matter of right but he has a right to say that his case must be considered. As stated earlier, the case of the petitioner and Opp. Party Nos. 3 and 4 <sup>was</sup> ~~were~~ considered and the Committee came to conclusion that Opp. Party Nos. 3 and 4 were suitable and the petitioner was not suitable. Therefore, in no circumstances, this conclusion arrived at by the Departmental Promotion Committee can be interfered by a Court unless there is a plea of mala fide against any of the authorities or the Members of the Departmental Promotion Committee. No such case was put up by the Petitioner. Therefore, we are of opinion that in the aforesaid facts and circumstances, this Bench cannot interfere even though Mr. Dora learned counsel appearing for the petitioner had strenuously urged before us that the Station Director, Smt. Bina Pati <sup>her encumbrance</sup> had given intention to the petitioner in an <sup>logical</sup> ~~illegal~~ term about his performance.

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6. Be that as it may, keeping <sup>in view</sup> the aforesadd settled position of law which was rightly and fairly not disputed at the Bar, we cannot extend our hands for interference. Thus, prayer of the petitioner on this account stands rejected.

7. It was next submitted by Mr. Dora that the petitioner has since been given promotion to the post of Assistant Director, on adhoc basis, with effect from June, 1993 and therefore, the authorities should consider his regularisation. We feel that there is substantial force in the contention of Mr. Dora that promotion of the petitioner to the Post of Assistant Station Director must have been given against a sanctioned post though on adhoc basis. If such promotion has not been given as a stopgap arrangements, in the place of somebody going on leave etc., then the case of the petitioner should be considered for regularisation against the vacant post if any arising after 5.11.1990 and we hope and trust while considering this aspect, the concerned authority would take into account the provisions contained in Rule 2.4.1 of the Office Memorandum issued by the Department of Personnel and Training vide letter dated 10th March, 1989 on the subject "Procedure to be observed by Departmental Promotion Committee" or Mr. Dora urged before us that Rule under Article 309 published in the Extraordinary Gazette dated November 5, 1990 styled as Indian Broadcasting prescribed Service Rule, 1990 forming subject matter of

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 Annexure 6 should also be taken into consideration <sup>along with</sup> while complying <sup>with</sup> the direction of this Bench. We hope and trust, the concerned authority would also take <sup>into</sup> consideration the provisions contained under the Rules stated above.

8. Thus, the application is accordingly disposed of. No costs.

Member (Administrative)  
 Member (Administrative)

10 Dec 93

*Le. ad. Dr. S. Mohanty*  
 10.12.93.

Vice-Chairman

Central Admin. Tribunal  
 Cuttack Bench, K. Mohanty  
 10, 12, 1993.

