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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION NO.192 OF 1992
Cuttack, this the 30th day of Sept., 1997

M.K.Vasu

....

Applicant

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

(L.SWAMINATHAN)
MEMBER(JUDICIAL)

Somnath Som
(S.SOM)
VICE-CHAIRMAN
30.9.97

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 192 OF 1992
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CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN
AND
HONOURABLE SMT. L.SWAMINATHAN, MEMBER (JUDICIAL)

....

M.K.Vasu, aged 42 years,
s/o M.K.Chayi,
Manager, Refreshment Room,
Berhampur Railway Station,
District-Ganjam (Orissa)

....

Applicant

-versus-

1. Union of India through its Secretary, Ministry of Railways, New Delhi.
2. General Manager, South Eastern Railways, Garden Reach, Calcutta-47 (West Bengal).
3. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-47, West Bengal.
4. Chief Commercial Superintendent (Catering), S.E.Railway, 9th Floor, 14-Strand Road, Calcutta-1
5. Assistant Commercial Superintendent, S.E.Railway, Khurda Road, Dist. Puri ... Respondents

Advocate for applicant - Mr.A.K.Rao

Advocate for respondents - Mr.D.N.Misra.

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O R D E R

S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has made

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the following prayers:

- (1) The final list of selection of 19 candidates for promotion to the posts of Catering Supervisor Grade I should be published within thirty days;
- (2) The applicant should be paid differential pay and other dues as Catering Supervisor Grade I (Manager, Refreshment Room at Palasa) over and above what he has already been paid as Catering Supervisor Grade III during his tenure at Palasa; and
- (3) The applicant should be given ad hoc promotion to the post of Catering Supervisor Grade I from the date his junior has been given promotion.

We have heard the learned lawyer for the applicant at length. At the end of his submission covering all the three prayers made in the application, the learned lawyer for the applicant submitted that he would not press for the first and third prayer, and we are thus required only to consider the question of granting the applicant differential pay during his tenure at Palasa. For consideration of this prayer, some facts relating to this prayer will have to be stated.

2. The applicant was initially appointed as Catering Supervisor Grade III at Waltair in order dated 5.3.1985 at Annexure-1 to the O.A. In order dated 15.1.1986 (Annexure-2) he was directed to take charge from Sri G.C.Saha, Manager, Refreshment Room, Palasa. The applicant has claimed in paragraph 6(5) of his application that during his tenure at Palasa from 15.1.1986 to 7.11.1988 he discharged the
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functions of Manager, Refreshment Room, i.e., Catering Supervisor Grade-I, and he should be entitled to get the emoluments of Catering Supervisor as he discharged the responsibilities of the higher post.

3. The respondents in paragraph 7 of their counter have stated that Sri G.C.Saha, in whose place the applicant was working as Manager, Refreshment Room, Palasa, was in the scale of Rs.975-1940/- and was promoted on ad hoc basis in the scale of Rs.1200-2040/-. The respondents have asserted that mere fact that the applicant had worked in place of Sri G.C.Saha would not entitle him to get same pay and emoluments as admissible to Sri Saha.

4. In the context of the above rival submissions of the contending parties, the prayer of the applicant has to be considered. It has been submitted by the learned lawyer for the applicant that Sri G.C.Saha was like the applicant Catering Supervisor Grade III. He was allowed to work as Manager, Refreshment Room, Palasa, which is in the rank of Catering Supervisor Grade I. It has been further asserted, in course of hearing, that Sri Saha was allowed the scale of pay of Catering Supervisor Grade I during his tenure as Manager, Refreshment Room, Palasa. The case of the applicant is that he was also Catering Supervisor Grade III and he was asked to take over charge from Sri Saha, which he did and he discharged the responsibilities of Manager, Refreshment Room, Palasa, from 15.1.1986 to 7.11.1988. Therefore, on the analogy of the case of Sri Saha, he should be allowed the emoluments attached to that post. *Prima facie* the prayer is eminently

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reasonable. But in course of hearing, it was not clear to us whether Sri G.C.Saha was like the applicant Catering Supervisor Grade III during the time he worked at Palasa, as has been asserted by the learned lawyer for the applicant. If the emoluments of the higher post were allowed to Sri Saha at Palasa, then obviously on the same logic the emoluments of higher post will have to be allowed to the applicant. In consideration of the above, we order that in case Sri G.C.Saha was in the rank of Catering Supervisor Grade III while he worked as Manager, Refreshment Room, Palasa, and he was allowed the emoluments of Catering Supervisor Grade I during his tenure there, then the same benefit should be allowed to the applicant. This should be done within a period of 90 (ninety) days from the date of this order. In case, however, Sri G.C.Saha was in the higher grade, i.e., Catering Supervisor Grade II, and while working as Manager, Refreshment Room, Palasa, he was allowed the emoluments of Catering Supervisor Grade I, ^{also} then ~~on~~ on the same analogy, the applicant should be allowed the emoluments of the post of Catering Supervisor Grade I during his tenure there.

5. In the result, therefore, the Original Application succeeds and is allowed in part, but there shall be no order as to costs.

Lakshmi Srinivasan
(L.SWAMINATHAN)
MEMBER(JUDICIAL)

Somnath Som
(S.SOM)
VICE-CHAIRMAN
30.9.97