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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 357 OF 1992
Cuttack, this the 12th day of May, 1997

Shri Padmanav Mohanty

Applicant

Vrs.

Union of India, & others

Respondents

(FOR INSTRUCTION)

- 1) Whether it be referred to the Reporters or not? Yes
- 2) Whether it be circulated to all the Benches of the NO. Central Administrative Tribunal or not?

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (JUDICIAL)

Somnath Som
(S. SOM)
VICE-CHAIRMAN 12.5.97

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
Cuttack Bench, Cuttack

O.A.NO.357/92

Cuttack, this the 12th day of May, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

&

HONOURABLE SMT. L.SWAMINATHAN, MEMBER(JUDICIAL)

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Shri Padmanav Mohanty,
aged about 51 years,
son of late Parikhita Mohanty,
Village-Aini, P.O-Bentkar,
District-Cuttack,
now working as Clerk Grade I
in the Doordarshan Kendra,
Cuttack-8

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Applicant

Vrs.

1. Union of India,
represented through
the Secretary to Government of India,
Ministry of Information & Broadcasting,
New Delhi.

2. Director-General, Doordarshan,
Mandi House, Copernicus Marg,
New Delhi-110 001.

3. Director, Doordarshan Kendra,
Tulasipur, Cuttack-753008

4. Station Director, All India Radio,
Cuttack-753 001.

5. Shri Safique Khan, Accountant (Spot),
At-Commercial Broadcasting Service,
All India Radio, Cuttack-753001.

Respondents.

Advocates for applicant - M/s Antaryami Rath &
A.Ch.Rath.

Advocate for respondents - Sri U.B.Mohapatra.

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Jonnath Jm
12.5.97

ORDERS.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Padmanav Mohanty, Clerk Grade-I in Doordarshan Kendra, Cuttack, has prayed for quashing the seniority list of Clerks Grade-I/Storekeepers at Annexure-6 and the memorandum dated 3.6.1992 at Annexure-12 rejecting his representation for correctly fixing his seniority. He has also asked for a direction to the respondents to promote him to the post of Accountant/Head Clerk/Senior Storekeeper with effect from 3.5.1990 when Safique Khan (respondent no.5), who, according to the applicant, is junior to him, was given promotion to the post of Accountant and also to grant him all other consequential service benefits.

2. The applicant joined as a Clerk Grade-II in All India Radio, Cuttack, on 17.1.1969. He was promoted to Clerk Grade-I and joined as such at Sambalpur on 31.5.1976. At the level of Clerk Grade-II the applicant was admittedly senior to Safique Khan (respondent no.5) who joined as Clerk Grade-II on 29.1.1969. In the seniority list of Clerks Grade-II, which is at Annexure-3, the applicant's name has been shown at serial no.3 and respondent no.5's name at serial no.4. Case of the applicant is that in a letter dated 7.12.1983 from Station Director, All India Radio, Cuttack, which is at Annexure-1, Director, Doordarshan Kendra, Cuttack, was informed that respondent no.5 was not senior to the applicant in the cadre of Clerk Grade-I/Storekeeper. It was also ordered that this might be brought to the notice of both the applicant and respondent no.5. The applicant further relies on the letter dated 29.5.1984 (Annexure-2) from Station Director, All India Radio to Station Engineer, Doordarshan Kendra, Cuttack, stating therein

*Johnnath Jom
12.5.92.*

that seniority of respondent no.5 has already been intimated in the letter dated 7.12.1983 (Annexure-1). It was further indicated in the letter that this case was linked with seniority of the applicant which was subjudice and the decision of the Hon'ble High Court should be awaited. The applicant further states that in the seniority list of Clerks Grade-I, which is at Annexure-4 and which shows the position as on 1.4.1986, the applicant was shown senior to respondent no.5, his serial being 17 and serial of respondent no.5 being 18. It seems that respondent no.5, along with some others, was given ad hoc promotion to Clerk Grade-I and the applicant was not given that advantage even though he claimed to be senior to present respondent no.5 and two others. On this ground, the applicant filed O.J.C.No.2234 of 1983 which was transferred to the Tribunal on its formation and was numbered as T.A.No.340 of 1986. In the judgment in T.A.No.340 of 1986 delivered on 22.1.1987 it has been noted that the applicant had in course of that litigation been promoted in the year 1976 with his seniority being kept in tact as submitted by his learned counsel. Against the background of the above facts, grievance of the applicant is that the revised seniority list of Clerks Grade-I was published showing the position as on 1.7.1987 and in this seniority list respondent no.5 was shown against serial no.16 and the applicant was shown against serial no.27. His case is that he is senior to respondent no.5. Basing on this revised seniority list, respondent no.5 had been promoted to the post of Accountant (Spot) at All India Radio, Cuttack, ignoring the claim of the applicant. On the basis of the above facts, the applicant has prayed for the reliefs as mentioned earlier.

S. Venkateswaran
12.5.97

3. The respondents in their counter have pointed out that the applicant became junior to respondent no.5 by virtue of being confirmed subsequent to respondent no.5. The Departmental Promotion Committee met in the year 1986 and did not find him suitable for confirmation. As a result, in the revised seniority list showing the position as on 1.7.1987 the applicant was rightly shown as junior to respondent no.5. It has been further submitted in the counter that in the judgment dated 22.1.1987 passed in T.A.No.340 of 1986 the above position has been confirmed and therefore, the matter has been settled and the applicant has no scope to file this application to claim his seniority once again above respondent no.5.

4. We have heard the learned lawyer for the applicant and the learned Additional Standing Counsel and perused the records. It is seen from the records that in the rank of Clerk Grade-II the applicant was obviously senior to respondent no.5, having joined on 17.1.1969 whereas respondent no.5 joined as Clerk Grade-II on 29.1.1969. In the matter of promotion to Clerk Grade-I, however, respondent no.5 was promoted as Clerk Grade-I on 26.3.1976 whereas the applicant was promoted as Clerk Grade-I on 31.5.1976. In T.A.No. 340 of 1986 the applicant challenged the ad hoc promotion of respondent no.5 and some others to the post of Clerk Grade-I. It was also the case of the applicant in that litigation that the Departmental Promotion Committee did not consider his case at all. The Tribunal obtained the minutes of Departmental Promotion Committee, perused the same and found that the case of the applicant was considered by the Departmental Promotion Committee, and that the Departmental Promotion Committee found the applicant

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unsuitable. As there was no allegation of mala fide, bias, etc., against the members of the Departmental Promotion Committee, the Tribunal indicated that they had no right to interfere in the matter. As such, the applicant cannot once again challenge the decision of the Departmental Promotion Committee. As regards the argument of the applicant that in the judgment in T.A.No.340 of 1986 his seniority was kept in tact, a perusal of the judgment or its extract makes it clear that this was the submission made on behalf of the applicant in that case and this was not the finding of the Tribunal. Therefore, the judgment in T.A.No.340 of 1986 cannot come to his help in any way. Again in the D.P.C. meeting held in 1986 the question of confirmation of Clerks Grade-I was taken up. The applicant was found unsuitable for confirmation and ten other persons including respondent no.5 were found suitable and they were confirmed earlier than the applicant. Therefore, the applicant has been rightly shown as junior to respondent no.5 and his prayer for declaring him senior to respondent no.5 is without any merit and is rejected. Necessarily, his prayer for quashing the order of rejection of his representation is also to be rejected as the applicant has been rightly shown as junior to respondent no.5 in the rank of Clerk Grade-I. He cannot claim promotion to the post of Accountant/ Head Clerk or similar level post from the date respondent no.5 got promotion. This claim is also misconceived and is rejected.

5. In the result, therefore, the Original Application fails and is rejected, but in the circumstances there shall be no order as to costs.

Lakshmi
(SMT. LAKSHMI SWAMINATHAN)
MEMBER(JUDICIAL)

S. Som
(S. SOM)
VICE-CHAIRMAN
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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.357 of 1993

Date of Decision: 21.7.1993

Ram Pravesh Mahato

Applicant

Versus

Union of India & Others

Respondents

For the applicant

Mr. Pradipta Mohanty
Advocate

For the respondents

Mr. Ashok Mishra
Sr. Standing Counsel
Central Government

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C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT

MR .K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner Shri Ram Pravesh Mahata prays to quash the order passed by the competent authority transferring him from Bhatipada to Kantabanjhi. Instead of keeping this matter pending unnecessarily, we though it just and expedient for the interest of justice to dispose of the matter, and therefore, with the consent given by the counsel for both sides, we have heard this case on merit.

2. We have heard Mr.Pradipta Mohanty, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel. The petitioner has been transferred from Bhatipara to Kantabanji on being promoted to the Grade of H.S.G.-II. Gr̄evance of the petitioner is that though seniors to the petitioner, similarly ^{seniors} ~~disputed~~ have stayed for a long tenure in their respective places of posting; and posted in their own native places; a differential treatment has been given to the petitioner by sending him out to a far distant place on the plea that he has been promoted and that the junior most should move first. We do not know whether this is a correct state of affairs. Therefore, we refrain ourselves from expressing any opinion on the merits of the case.

3. Mr.Mohanty submitted that the petitioner proposes to file a representation before the Superintendent of Post Offices, Bolangir stating all these facts including the differential treatment given ^{to} other employees in their native place. We are sure, as a higher authority the Superintendent of Post Offices, Bolangir will not enter into the arena of discrimination. Though we express no opinion on the merits

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of the representation to be filed by the petitioner, yet, we hope and trust that all the employees similarly situated will receive an equal treatment from the Superintendent of Post Offices. The representation be filed by the petitioner and disposed of accordingly giving reasons within 30 days from the date of receipt of representation to be filed by the petitioner.

4. The petitioner will submit his representation, if so advised within 10 days from to-day. Till then the Superintendent of Post Offices will give necessary direction to the petitioner not to make the transfer order effective otherwise his representation may become infructuous. Thus the application is accordingly disposed of. No cost.

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MEMBER (ADMINISTRATIVE)

21 JUL 93

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 21.7.1993/ B.K.Sahoo

b.k.sahoo
21-7-93
VICE-CHAIRMAN

