

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 421 OF 1992

Date of decision: December 2, 1993

Prasanna Kumar Panda	...	Applicant
	Versus	
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 Central Administrative Tribunals or not? *no*


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

02 DEC 93

 2/12/93
(K. P. ACHARYA)
VICE CHAIRMAN

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Prasanna Kumar Panda	...	Applicant
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Union of India & Others	...	Respondents
For the Applicant	...	Mr. D. P. Dhalsamant, Advocate
For the Respondents	...	Mr. Ashok Misra, senior Standing Counsel (Central).

C O R A M :-

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
&
THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

J U D G M E N T

K. P. ACHARYA, V. C.

The petitioner Shri Prasanna Kumar Panda has a grievance relating to nonconsideration of his case for promotion to L.S.G and H.S.G. Grade in the year 1974 and 1988. Hence this application has been filed for an appropriate direction to be issued to the opposite parties.

2. Shorn of unnecessary details, it would suffice to say that the petitioner has retired on superannuation with effect from 31st July, 1991 from the post of Assistant Postmaster, Sambalpur. While he was functioning as Sub Postmaster of Modipara Sub Post Office, there was non-credit of Rs. 8,174.72p in respect of certain V.P. Articles which had been delivered to the payee. A First Information Report was lodged on 16th August, 1973. The Investigating officer, ultimately submitted a final report.

been
 The Petitioner had placed under suspension from
 1st August, 1973 to 31st August, 1974. As late as
 1985, a Departmental Proceeding was initiated and
 a charge-sheet was submitted. After a Full-fledged
 enquiry, the petitioner was found to be guilty of
 the charges and it was ordered that a sum of Rs. 3500/-
 should be recovered from the petitioner. This order
 of punishment was under challenge in Original
 Application No. 147 of 1987. By judgment dated 19th
 February, 1991, Division Bench quashed the order of
 punishment and exonerated the petitioner from the
 charges. The Petitioner was promoted to L.S.G. cadre
 on 21st August, 1980. The Petitioner not having been
 given the service benefits of the promotion to the
 L.S.G. cadre with effect from 1974, this application
 has been filed with the aforesaid prayer and also
 consequential relief has been claimed for his
 subsequent promotion to the higher grade.

3. In their counter, the opposite parties
 maintained that since a departmental proceeding was
 pending against the petitioner, rightly he was
 denied promotion to L.S.G. Grade and after he was
 found to be suitable, the petitioner was given promotion
 with effect from 21st August, 1980. It is further
 maintained by the Opposite Parties that the claim
 of the petitioner is illfounded and misconceived.
 Therefore, in no circumstances, the application should
 be allowed.

4. We have heard Mr. D.P. Dhalsamant learned counsel appearing for the Petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central for the Opposite Parties).

5. Law is well settled that the deemed date of initiation of the departmental proceeding is the date of issue of the chargesheet. This settled position of law not having been rightly and fairly disputed at the Bar, citations in a bed-roll of judgments passed by the Hon'ble Supreme Court on the subject need not be stated. Admittedly, the Petitioner was ripe for consideration for promotion to L.S.G. Grade with effect from 1974. Further admitted case is that by the time the promotion was due, final report had been submitted under section 173 Cr. P.C. by the Investigating Officer. Even if this question is a disputed one, yet, by virtue of the fact that final report has been submitted by the Investigating officer even after 1974 and the departmental proceeding having been quashed by a Division Bench of this Tribunal, there remains no dirty linen pending against the petitioner in the year 1974. In our opinion, the petitioner has a clean slate in his favour in the year 1974. We are therefore, of further opinion that there was no justification on the part of the competent authority in not considering the case of the petitioner for promotion to L.S.G. grade in the year 1974, after pronouncement of the judgment passed

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in O.A.No.147 of 1987. Therefore, we would direct that the case of the petitioner be reconsidered for promotion to L.S.G. grade with effect from 1974 and on the basis of the records available before the authority, such consideration should be made and if he is found to be suitable, the petitioner should be given promotion to the LSG grade with effect from 1974. In case the petitioner is not found to be suitable in the year 1974 his suitability should be considered on each year after 1974 till the year 1980 when he was ultimately given promotion. If the petitioner is found to be suitable for promotion to LSG grade ~~then~~ he should be given promotion. Thereafter for the subsequent promotional post/posts, the case of the petitioner should be considered, if he comes within the consideration zone and after consideration, if he is found to be suitable then he should be given promotion to the subsequent promotional post/posts, *with effect from the date on which his juniors were promoted.* If promotion is given, the petitioner is entitled to all the arrear financial emoluments because the petitioner was not kept out of service in regard to the promotional post/posts out of his own volition. The petitioner was kept out of the promotional post because of an illegal view having been taken by the concerned authorities. Therefore, we would direct that in case the petitioner is given promotion to any promotional post/posts, emoluments to which

the petitioner would be entitled to, according to rules, should be paid to him.

6. We would further direct that a Special D.P.C. be convened and the case of the petitioner be considered for promotion to the post/posts as indicated above and orders be passed according to law. We would direct that the selection process should be completed within 60 days from the date of receipt of a copy of the judgment and if he is found to be suitable, arrear emoluments should be paid within 45 days from the date of issuance of promotion order.

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

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 MEMBER (ADMINISTRATIVE)
 02 Dec 93

.....
 VICE-CHAIRMAN
 2.12.93

Central Administrative Tribunal,
 Cuttack Bench, K. Mohanty/2/12/93.