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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.548/92

Cuttack, this the 6th day of March, 1995

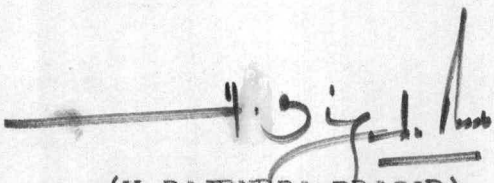
Nilakantha Patnaik Applicant

Vrs.

Union of India and others Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters N.
or not?
2. Whether it be circulated to all the Benches N.
of the Central Administrative Tribunal or
not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

06 MARCH 95

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.548/92

Cuttack, this the 6th day of March , 1995

CORAM:

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

....

Nilakantha Patnaik
aged about 58 years,
at present working as Group-D,
DNC, General Post Office,
Bhubaneswar, Dist.Puri

.... Applicant.

By the Advocates

...

M/s Deepak Misra,
A.Deo, B.S.Tripathy,
P.Panda and D.K.Sahu.

Vrs.

1. Union of India, represented
by its Secretary in the
Department of Posts, Dak Bhawan,
New Delhi.
 2. Chief Post Master General, Orissa Circle,
Bhubaneswar, District-Puri.
 3. Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar,
District-Puri
- Respondents.

By the Advocate

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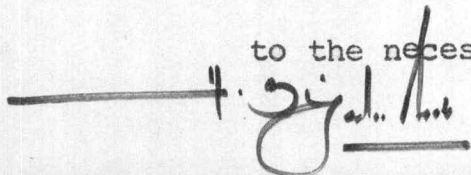
Shri Ashok Mishra.

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O R D E R

H.RAJENDRA PRASAD, MEMBER (ADMN.) The applicant, Shri Nilakantha Patnaik, was a Group 'D' official in G.P.O., Bhubaneswar. In October, 1991, the Department of Posts introduced a scheme known as Biennial Cadre Review under which all regular officials who had completed twenty-six years of service on 1.10.1991 were to be given promotion and placed in the next higher scale. In accordance with the said scheme the scale of pay of the applicant, who was earlier in the scale of Rs.750-940/-. was placed in the revised scale of Rs.950-1400/-. In July, 1992, a decision was communicated by the Director-General of Posts that the retirement age of all Group 'D' officials who were so promoted to higher scale of pay would be reduced from sixty to fifty-eight. The applicant was thereafter ordered to retire on 31.10.1992. It is to be mentioned that the applicant, whose date of birth was 21.4.1933, had already passed the age of fifty-eight. The applicant was, however, given a choice to refuse promotion to the higher pay-scale already given under the scheme, and to refund the differential amount already paid in case he wished to continue in service till sixty years.

2. The retirement order was stayed by this Tribunal on 30.10.1992 and the question relating to the necessity of refund of differential amount



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was left open to be adjudicated at a later stage.

3. It now reveals that the applicant duly continued upto 30.4.1993 on which date he retired from service on completion of sixty years. Thus one of the grievances of the applicant concerning the lowering of the retirement age stands conceded already. The only remaining question is whether he would refund the differential amount in the pay scales of Rs.750-940/- and Rs.950-1400/- during his service beyond 58 years.

4. It is the contention of the applicant that the age of superannuation cannot be altered as long as Rule 74 of the CCS (Pension) Rules, 1972 is not amended. He also complains that at the time of implementation of the Biennial Cadre Review scheme in October 1991 he had not been informed regarding the lowering of retirement age. This decision was communicated after a delay of seven months by which time he has already continued beyond the age of fifty-eight in a higher scale. It would be unfair under the circumstances to recover any amount from him since he was induced to accept the higher scale on the natural assumption that his retirement on superannuation would in no way be affected ^{or} that the two would in any way be linked and made conditional upon one another at some future date.

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5. The respondents have filed an additional counter in this case annexing, among others, a letter from the Director-General of Posts (No.22-11/92-PE-I dated 16.10.1992) according to which this problem had already come to the Department's notice and certain proposal to mitigate the grievances on this score were under consideration. In December, 1992, the Department introduced a temporary intermediary scale of Rs.825-1200/-, between the earlier scales of Rs.750-940/- (pre-BCR) and Rs.950-1400/- (post-promotion). This was intended to dilute possible hardships that might have been caused to officials, like the present applicant, due to delay in conveying the decision regarding lowering of the retirement age.

6. The scheme of Biennial Cadre Review seems to have been accepted and implemented owing to a long-standing demand of the staff unions. It was an all-India scheme designed to benefit an unusually large work-force comprising numerous cadres. In such a situation and circumstances, certain problems and teething-troubles are perhaps to be expected and some marginal cases were bound to arise as the present one.

7. However, with the introduction of a (temporary) intermediary scale, the Department has tried to lessen the adverse impact of the lowering of the retirement age. This measure was evidently meant to

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benefit all those who were similarly placed as the present applicant. He has moreover served his full term upto the age of sixty years. Under the circumstances, there cannot possibly exist any grievance which can still be reasonably entertained by the applicant. A scheme which was primarily designed to afford relief to a large body of workers throughout the country cannot be interfered with lightly.

8. The only question that remains unsettled is the one relating to the refund of the differential amount. I understand that this works out to a little less than Rs.900/-. It is also learnt that the Department have themselves stayed recovery of the amount. Under the circumstances, there is nothing for this Tribunal to interfere in the matter and the question has to be necessarily left to the respondents to decide as to whether the recovery of this amount is to be waived, eventually, keeping in view all the attendant circumstances in this case.

9. The application is disposed of with the direction that a decision may be awaited from the departmental authorities with regard to recovery/non-recovery of the amount due from the official on account of his continuance in a scale higher than Rs.825-1200/- beyond the age of

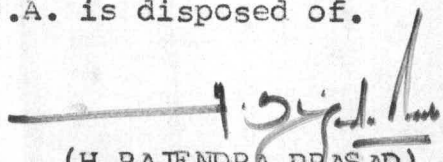
— 4. G. J. S. —

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58 years. It is also firmly hoped that official discretion shall be exercised, to the extent possible, in favour of this applicant because of the twin-facts that (a) he has served the department loyally for a long time, and (b) he was ignorant of any move to lower the retirement age on acceptance of a higher scale when he was initially so placed in the said higher scale.

10. Thus, the O.A. is disposed of.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
06 MAR 95

A.N.Nayak, P.S.