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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 135 OF 1993
Cuttack, this the 2nd day of May, 2000

Lambodar Mishra

Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*

2. Whether it be circulated to all the benches of the
Central Administrative Tribunal or not? *No*

→
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2-5-2000



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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

Lambodar Mishra, aged about 37 years, son of Siropani Mishra, at present working as Works Manager, Ordnance Factory, Bolangir, At/PO-Badamal, District-Bolangir.

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Applicant

Advocate for applicant - Mr.B.S.Tripathy

Vrs.

1. Union of India, represented by the Secretary, Department of Defence, Ministry of Defence, New Delhi.
2. Director General, Ordnance Factory Board, 10-A Auckland Road, Calcutta-1.
3. General Manager, Ordnance Factory, Bolangir, At/PO-Badamal, Dist.Bolangir, Pin-767 770
4. Shri K.K.Pati
5. Shri Rajnish Lodwal
6. Shri C.B.S.Markam
7. Shri M.S.Tamhane
8. Shri Rajib Chakraborty
9. Shri Pulakranjan Mandal
10. Shri R.S.Shabnam
11. Shri S.K.Gupta
12. Shri Santosh S.Kumar
13. Shri D.Gangopadhyaya
14. Shri N.S.Lamba
15. Shri J.Nagarajan
16. Shri P.S.Edgaonkar
17. Shri K.K.Trivedi
18. Shri Lucas Dhanaraj
19. Shri B.P.Das
20. Shri Basant Kumar
21. Shri R.R.Shende
22. Shri Gobinda Haldar
23. Shri S.V.Bhata
24. Shri P.L.Pathak
25. Shri A.K.Pathak
26. Shri B.B.Rao
27. Shri C.K.B.Nair
28. Shri I.M.Sakhare
29. Shri T.Basu
30. Shri K.K.Pakray
31. Shri J.S.Dhadwal
32. Shri N.V.Raman
33. Shri S.P.Chakravarti



J. S. Tripathy

34. Shri Ashutosh Kumar
35. Shri L.B.Singh
36. Shri A.K.Mondal
37. Shri D.M.Puri
38. Shri T.R.Nanda
39. Shri Kashmir Singh
40. Shri Gopalji Jha
41. Shri K.Appa Rao
42. Shri S.K.Ghodke
43. Shri S.Ranga Rajan
44. Shri T.K.Bandopadhyay
45. Shri A.K.Kundu
46. Shri M.P.Sharma
47. Shri D.Ashok Babu
48. Shri A.K.Maiti
49. Shri Om Prakash Raidasi
50. Shri S.K.Balasubramanian
51. Shri S.Sridharan
52. Shri A.K.Acharya
53. Shri Kasturi Narayanan
54. Shri P.S.Sampath
55. Shri A.Unnikrishnan
56. Shri M.P.Saxena
57. Shri P.V.Paul
58. Shri V.R.Reddy
59. Shri R.K.Nayak
60. Shri R.Anurachalam
61. Shri M.Nagarajan
62. Shri B.M.Tuli
63. Shri B.R.Sharma
64. Shri S.V.Srivastava
65. Shri Prem Saran
66. Shri V.Sankaran
67. Shri S.K.Tandon
68. Shri Virendra Singh
69. Shri P.K.Dwivedi
70. Shri K.L.Saha
71. Shri Lal Chand
72. Shri D.K.Dutta
73. Shri K.D.Swani
74. Shri M.Subramaniaum
75. Shri T.V.Mani
76. Shri S.N.Athawade
77. Shri V.T.Ingle
78. Shri P.D.Shinde
79. Shri K.Sukumaran
80. Shri B.D.Ramugade
81. Shri Murari Lal
82. Shri R.P.Rai
83. Shri S.K.Bandopadhyay
84. Sri P.K.Chaturvedi
85. Shri S.K.Banerjee

Sl.Nos. 4 to 85 are I.O.F.S. Officers serving under the Director General, Ordnance Factory Board (Minsitry of Defence), 10-A Auckland Road, Calcutta.

86. Union Public Service Commission represented by its Secretary, Dholpur House, Shahjahan Road, New Delhi.... Respondents

Advocate for R.1 to 3 & 86 - Mr.S.B.Jena
ACGSC



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ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this petition under Section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 8.7.1992 at Annexure-6 rejecting his representation regarding seniority. The second prayer is for quashing the seniority list at Annexure-4 insofar as it relates to applicant and respondent nos. 4 to 85 and for a direction to the departmental authorities to refix the seniority of the applicant above respondent nos. 4 to 85.

2. In this 1993 matter the applicant had not given the addresses of private respondent nos. 4 to 85 but had merely mentioned that they are serving under Director General, Ordnance Factory Board, Ministry of Defence. Several adjournments were allowed to the learned counsel for the petitioner to supply the addresses of the private respondents over which the applicant is claiming seniority. But addresses of respondent nos. 4 to 85 who are officers serving in the Department were not given by the applicant. Therefore, in order dated 15.12.1999 it was noted that since 30.8.1997 the matter is being adjourned only for supply of addresses of respondent nos. 4 to 85. But these had not been supplied. In order dated 15.12.1999 the O.A. was dismissed so far as respondent nos. 4 to 85 are concerned.

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3. In view of the above, the O.A. claiming seniority over private respondent nos. 4 to 85 is liable to be dismissed at the threshold on the ground that persons over whom seniority is claimed by the applicant have not been impleaded as parties.



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4. On 17.4.2000 when the matter was called, on behalf of the learned counsel for the petitioner adjournment was asked for. As this is a 1993 matter where pleadings had been completed long ago, the prayer for adjournment was rejected and the learned Additional Standing Counsel for the departmental respondents was heard. We have also perused the records.

5. As earlier noted for non-joinder of necessary parties the Application is liable to be dismissed at the threshold. Even then we have looked into the averments made by the applicant and the departmental respondents in the pleadings.

6. According to the applicant, he is working as Works Manager in Ordnance Factory, Bolangir. The post of Works Manager is a promotional post from the post of Assistant Works Manager. This is a time scale promotion which comes after completion of four years of service and is completely non-selection in nature. The post of Assistant Works Manager is filled up through examination conducted by Union Public Service Commission and seniority of a person recruited in a year is determined on the basis of his position in the merit list. The applicant was selected in the examination conducted by UPSC in 1983 and after extension of joining time was allowed to him he joined on 5.2.1986 as Assistant Works Manager. According to the applicant the seniority list at Annexure-3 shows his position correctly against serial no. 111, after one S.C.Gupta at serial 110 and above K.K.Pati at serial no.112. The applicant's grievance is that in the seniority list of Works Managers which is in Senior Time Scale showing the

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position as on 1.1.1992 Shri S.C.Gupta has been shown against serial no.125 and Shri K.K.Pati against serial no.126, but the applicant has been shown much below them at serial no.208 under the private respondent nos.4 to 85. In the context of the above, the applicant has come up with the prayer referred to earlier.

7. The departmental respondents in their counter have pointed out that in the Junior Time Scale,i.e., in the post of Assistant Works Manager, there are both direct recruitment and promotion, and the seniority depends upon the rota quota system between direct recruit and promotee. An Assistant Manager becomes eligible for promotion to Senior Time Scale to the post of Works Manager on completion of four years service. The departmental respondents have pointed out that when his batch-mates were considered for promotion to the post of Works Manager in the DPC meeting held on 30.9.1988, the applicant's case could not be considered as he joined only on 5.2.1986. Therefore, he was promoted only after he completed four years of service. He joined the Junior Time Scale on 5.2.1986 and got promotion to Senior Time Scale to the post of Works Manager on 28.2.1990. In view of this, the departmental respondents have stated that his seniority in the rank of Works Manager has been correctly fixed. The departmental respondents have also stated that because of the above his representation has been rightly rejected in the impugned order at Annexure-6.



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8. From the above recital of averments in the pleadings it is clear that the applicant's grievance is only with regard to his position in the seniority list of Works Manager, i.e., in the Senior Time Scale of IOFS. According to the applicant himself he joined the service on 5.2.1986. The departmental respondents have pointed out that a Junior Time Scale officer is entitled to be considered for promotion after four years of service in the Junior Time Scale. This averment in the counter has not been denied by the applicant by filing any rejoinder. In view of this, it is clear that the applicant has been rightly promoted to Senior Time Scale after he has completed four years of service in Junior Time Scale on 28.2.1990 and accordingly he has been rightly placed below the private respondent nos. 4 to 85 in the seniority list of Works Managers because the private respondents have been promoted to Senior Time Scale prior to the applicant on the ground of their having completed four years of service in Junior Time Scale earlier.

9. In view of the above, we hold that the Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)



Somnath Som.
(SOMNATH SOM)

VICE-CHAIRMAN

2.5.2000