

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 201 OF 1993
Cuttack this the 7th day of July, 1999

(PRONOUNCED IN THE OPEN COURT)

B.C.Mohanty

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to 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
1.7.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 201 OF 1993
Cuttack this the 7th day of July, 1999

CORAM:

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

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Sri B.C.Mohanty,
aged about 59 years,
S/o. Late S.S.Mohanty,
Retired T.T.I., At/PO: Mouda
P.S. Bhadrak, Dist: Balasore

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Applicant

By the Advocates : M/s.N.K.Mishra
B.Dasmohapatra

-Versus-

1. Union of India
The Ministry of Railways,
Rail Bhawan
New Delhi : 110001 represented
through its Secretary
2. The South Eastern Railway,
Khurda Road, PO: Jatni-752050
Dist: Jatni-752050
Dist: Puri through the
Divisional Railway Manager
3. The Senior Divisional Personnel Officer,
South Eastern Railway, Khurda Road,
PO: Jatni-752050, Dist: Puri
4. Sri Kamal Lochan Mishra,
Chief Ticket Inspector (Retd)
South Eastern Railway,
Po/Dist: Puri

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Respondents

S Som.
By the Advocates : M/s.B.Pal
O.N.Ghosh
(Res. 1 to 3)

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for directing respondents to give him adhoc promotion to the post of Chief Ticket Collector in the scale of Rs.2000-Rs.3200/- with retrospective effect preceeding his retirement.

For the purpose of considering this Original Application it is not necessary to go into the averments made by the applicant in his application or the rejoinder filed by him, because going through the records, we feel that even on the averment made by the respondents themselves in the counter, this Original Application has to be allowed. In consideration of this, the averments made by the respondents in their counter are only being referred to.

2. Respondents have mentioned that the applicant superannuated as Train Ticket Inspector in the scale of Rs.1640-Rs.2660/- on 31.7.1992. Prior to retirement the applicant made a representation for giving him adhoc appointment to the post of Chief Ticket Inspector, so that he would be accommodated to higher scale and get certain pensionary benefits. No orders were passed on this representation. The respondents have denied the averment of the applicant that it is the normal practice that such adhoc appointments are given to employees who are going to retire shortly. The respondents have also stated that there is no such practice for giving adhoc /appointment. They have also stated that adhoc appointment can only be granted by offering such promotion to

seniormost person with the prior approval of Chief Personnel Officer, Garden Reach, Calcutta. The relevant portion of paragraph-3 of the counter is quoted below :

"The prayer of the applicant for such promotion was not allowed by the competent authority as there was no otherwise (sic) and also due to the fact that the applicant was a junior as T.T.I. and was not in turn of adhoc promotion even. It is submitted that the adhoc promotion can only be granted by offering such promotion to the seniormost officer with the prior approval of the Chief Personnel Officer, Garden Reach, Calcutta, but shall not be given as a matter of course." Adhoc promotions are only

The applicant has stated that even though he was not given adhoc appointment, another person, viz., Shri Kamal Lochan Mishra, who was admittedly junior to him was given adhoc appointment in order dated 23.9.1992 at Annexure-6. The respondents have stated that Shri Kamal Lochan Mishra was given adhoc appointment after retirement of the applicant, because there was a clear vacancy and those who are senior to Res.4 (Shri Kamal Lochan Mishra) refused such adhoc promotion. By that time the applicant had already retired and as such Res.4 was given adhoc promotion. We find from order at Annexure-6 itself that adhoc appointment was given to Shri Kamal Lochan Mishra (Res.4) with effect from 17.7.1992 though the same has been issued on 23.9.1992. By 17.7.1992 the applicant was very much in service as on the basis of the averments of the respondents themselves the applicant retired on 31.7.1992. When Shri Mishra was given adhoc promotion with effect from 17.7.1992 without considering the applicant's case who was very much in service by that date, this order at Annexure-6 was issued on 23.9.1992 by the time the applicant had already retired. From the above recital of fact it is clear that the departmental

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authorities did not consider the case of the applicant for adhoc promotion without any reason and gave promotion to his junior Shri Kamal Lochan Mishra (Res.4) from a date when the applicant was in service. The averment of the respondents that all seniors to Res.4 had refused promotion cannot be accepted, as the applicant, who is admittedly senior to Res.4 did ask for adhoc promotion and his case was not allowed. By not stating anything on the representation of the applicant and by giving adhoc appointment to Res.4, when the applicant was in service, the respondents have denied consideration of the case of the applicant.

3. In this case learned counsel for the petitioner is not present. On his behalf a short adjournment is asked for. As this is matter of 1993, it is not possible to drag on the matter indefinitely. In view of this we have heard Shri B.Pal, learned senior counsel appearing for Res.1 to 3 and also perused the records.

In view of the aforesaid discussions held above, we direct respondents to consider adhoc promotion of the applicant to the post of Chief Ticket Inspector from the date his junior Shri Kamal Lochan Mishra (Res.4) was given adhoc promotion on 17.7.1992 till the date of his retirement. This exercise should be completed within a period of 90 days from the date of receipt of this order. The retirement benefit of the applicant has also be worked out accordingly within a period of another 120 days.

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4. In the result the application is allowed in terms of observations and directions made above, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K. SAHOO

Somnath Som.
(SOMNATHSOM)
VICE-CHAIRMAN
4.7.99