

9

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 261 OF 1993
Cuttack this the 7th day of July, 1999**

(PRONOUNCED IN THE OPEN COURT)

Suresh Chandra Panda

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
Y7/99

10

8

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 261 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)**

...

**Sri Suresh Chandra Panda,
Junior Accounts Officer,
Office of the Deputy Director
of Accounts (Postal)
Cuttack**

...

Applicant

By the Advocates : **Mr.D.P.Dhalasamant**

-Versus-

1. Union of india represented through
Director General
Department of Posts,
Dak Bhawan,
New Delhi-110001
2. Chief Post Master General
Orissa Circle, Bhubaneswar-751001
3. Deputy Director of Accounts(Postal)
Cuttack-753005

...

Respondents

By the Advocates : **Mr.S.B.Jena,
Addl.Standing Counsel
(Central)**

...

S. Jena

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to respondents to regularise appointment of the applicant on a regular basis J.A.O. cadre with effect from the date his juniors were given promotion and also asked for financial and service benefits.

2. The case of the applicant is that he had earlier filed Original Application No.84/90 which was disposed of in order dated 5.4.1991 vide Annexure-1. In this order the Tribunal held that the applicant had passed the J.A.O. Pt.II examination of the Department of Posts. Thereafter the applicant's name was added at Sl.No.1 of the list of successful candidates of Pt.II examination held in November, 1988 in order dated 22.8.1991 which is at Annexure-2. The applicant has stated that notwithstanding the order of the Tribunal at Annexure-1 and the direction of D.G.Posts at Annexure-2, he was not immediately promoted to the cadre of J.A.O., but he was only given adhoc promotion in order dated 30.6.1992 at Annexure-3. The applicant submits that he was due for promotion from 1988 on his clearing the J.A.O. Pt.II examination as per orders of the Tribunal and that is why he has come up in this application with the prayers referred to earlier.

3. Respondents in their counter have stated that in pursuance of the order of the Tribunal in O.A.84/90 name of the applicant was added in the list of successful candidates of 1988 batch, but this order of the

Directorate came on 22.8.1991, after the order of the Tribunal in April, 1991. Therefore, while the applicant's juniors, who had cleared the examination in November, 1988 were given promotion to the cadre of J.A.O. and the applicant could not be promoted. Later on when this promotion was taken up there were three posts of which two were reserved posts because of carrying forward of reserve vacancies from earlier years; that is how the respondents gave promotion to the petitioner and two others who were also general candidate on adhoc basis in order at Annexure-3. Respondent have further stated that they have already moved for dereservation of the reserved posts and after the same is dereserved, regular and appointment would be given to the applicant from the date of regular appointment applicant will get all the benefits. The respondents have also stated that in consideration of the fact that the applicant was declared to have cleared the Pt.II examination of November, 1988 by virtue of the order of the Tribunal, the D.G.Posts had ordered that he should get his seniority in the rank of J.A.O. from the date his juniors were promoted to the cadre of J.A.O., but the actual financial benefits will be given to him only from the date he is promoted to the post of J.A.O. On the above grounds the respondents have opposed the prayer of the applicant.

4. Heard Shri D.P.Dhalasamant, learned counsel for the applicant and Shri S.B.Jena, learned Addl.Standing Counsel appearing for the respondents and also perused the records. It is submitted by the petitioner that with effect from the date of adhoc appointment in pursuance of the order at Annexure-3 to O.A., he is

J.S.M

getting the financial benefits, but even though the D.G.Posts in his dated 5.12.1991 vide Annexure-R/6 had ordered for counting his seniority from the date his immediate juniors were promoted, the Chief Post Master ^{sis months later} General issued order dated 30.6.1992 vide Annexure-3 indicating that his adhoc appointment will not count for the purpose of seniority. It is submitted by the learned counsel for the petitioner that as D.G.Posts has already allowed him seniority from the date his junior has been promoted to the post of J.A.O., he has no further grievance with regard to this aspect. It is also submitted by the learned counsel for the petitioner that from the date of his joining in pursuance of the order at Annexure-3 he is getting emoluments of J.A.O. His present prayer is, therefore, confined to getting emoluments ~~from~~ with effect from the date his juniors were promoted till the date of his promotion in pursuance of the order at Annexure-3. In this case admittedly the applicant is ^{declared} ~~held~~ to have cleared the Pt.II examination held in November, 1988, but this order has come ⁱⁿ sometime in April, 1991, i.e. after about three years and this has already been implemented in August, 1991 vide Annexure-2 after another ^{actually} four months. As the applicant has not worked in the post of J.A.O. from the date his juniors were promoted to the post of J.A.O., but has worked only when he joined in pursuance of the order at Annexure-3, we direct that the pay of the applicant should be notionally fixed in the cadre of J.A.O. from the date his juniors were so promoted and accordingly his pay should be calculated on *the date he joined as J.A.O. in pursuance of order at*

12 17
 Annexure-3 and from that date higher pay scale as notionally fixed should be allowed to him. The prayer for financial benefits is accordingly disposed of.

Learned counsel for the petitioner has also prayed for regularisation of his appointment as J.A.O. from the date his juniors were promoted. Since the seniority of the applicant has been allowed from the date his juniors were promoted and/or appointed, this prayer has already been ~~substantiated~~ ^{allowed} in order of the D.G.Posts for the purpose of counting his seniority from the date his juniors were promoted as J.A.O.. Therefore, no separate order is required to be passed on this aspect.

The Original Application is disposed of in terms of observations and directions made above, but without any order as to costs.

L.
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)

B.K.SAHOO

Somnath Som.
 (SOMNATH SOM)
 VICE-CHAIRMAN
 7.7.79