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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application Nos. 267/93 & 420/93

Date of Decision: 24. 8. 1994

IN O.A.267/93 R.N.Pattnaik & Others Applicant(s)

Versus

Union of India & Others Respondent(s)

IN O.A.420/93 D.Das and others Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

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

1.25 p.m.
(H.RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 AUG 94.


(D.P.HIREMATH)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application Nos. 267/93 & 420/93

Cuttack this the 24th Day of August, 1994

C O R A M:

THE HONOURABLE MR. JUSTICE D. P. HIREMATH, VICE-CHAIRMAN

AND

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

IN O.A. 267/93 1. Rabindranath Pattanayak
2. Simanchal Dash
3. Arjuna Charan Sahoo

Junior Accounts Officers,
Office of the Deputy Director
of Accounts (Postal) Cuttack

Applicants

By Advocate Shri 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

Respondents

By Advocate: Mr. Akhaya Mishra,
By Advocate Addl. Standing Counsel (Central)

IN O.A. 420/93 1. Duryodhan Das, aged about 36 years,
son of late Surat Das, Vill: / PO: Madhapur
Via: Kantilo, Dist: Nayagarh

At present working as Junior Accounts
Officer, O/o the Deputy Director Accounts
(Postal), Cuttack Dist: Cuttack

2. Subash Chandra Mahapatra, aged about
38 years, son of late Narahari Mohapatra
Vill: Chitrangpur, PO: Dipideuli
Via: Sakhigopal, Dist: Puri

At present working as Junior Accounts Officer,
Office of the Chief Post-master General,
Orissa, Bhubaneswar, Dist: Khurda

Applicants

By Advocates: M/s. Deepak Misra,
R. N. Naik, A. Deo
B. S. Tripathy
P. Panda

Versus

1. Union of India, represented by its
Secretary, Department of Posts,
Dak Bhawan, New Delhi

2. Chief Post-master General,
Orissa Circle, Bhubaneswar
Dist: Khurda

3. Deputy Director, Accounts (Postal)
Cuttack, At/PO/PS/Town & Dist: Cuttack Respondents

By Advocate ~~Mr.~~ Akhaya Mishra,
Addl. Standing Counsel (Central)

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O R D E R

D.P. HIREMATH, V.C.: Heard learned counsel for the petitioners and Shri Akhaya Mishra, learned Additional Standing Counsel (Central) for the respondents separately in each of the cases and as the common question of facts and law are involved in both the applications, we proceed to record a common order.

2. The grievance of the petitioners in both the applications is same, viz., after they had passed Junior Accounts Officer (Postal) Part-II Examinations they became due to the Junior Accounts Officer, Postal Cadre as and when the vacancies occurred. They were working as Postal Assistants in the Postal Department and they had appeared for this examination. When they could not be filled up in the existing vacancies on account of non-availability of reserved candidates at some of the reserved points and impermissibility to keep unfilled the reserved vacancies without carrying forward from time to time due to non-availability of such reserved candidates, they were given adhoc promotion to these posts in the year 1992 and it was necessary for the ^{Govt} ~~was~~

purpose of this order to give specific dates on which dates they were respectively given adhoc promotion. Even though there was a stream of correspondence for dereservation, on account of non-availability of candidates in the reserved categories, in order perhaps not to give scope for the petitioners to say that they were in continuous service in the same post of Junior Accounts Officer, an artificial course of action giving a break for some time in between periods of breaks to have been in the cadre as could be found in some of the instances. Herein the petitioners have approached this Tribunal with a prayer that they be regularised in the posts to which they were promoted adhoc.

3. It is not disputed that there do exist as many number of vacancies as there are petitioners now but not in the same category in which they are, viz., in the general category. Out of 8 vacancies three vacancies are required to be filled up by reserved candidates and five by other community candidates - according to the petitioners, whereas according to the respondents the vacancies are four and four. We think it unnecessary at this stage to determine how many posts should be filled by reserved candidates. Suffice it to note that the efforts of the departmental officers to get the reserved vacancies dereserved has not been successful so far, with the result the original method of creating a break by reverting those who were promoted adhoc and again giving adhoc promotion appears to be informal which is not even challenged. A certain circular was brought to our

16 notice that after three years the reserved quota lapses. From what point exactly three years should be taken into account in the matter, ^{is concerned with} they should not be repeated any longer in view of the order that we are to pass. It is not disputed that candidates to fill the reserved vacancies were not available and even the 6th and 7th point vacancies were carried forward, and though 38th and 39th vacancies also belong to general community candidates because of carrying them forward they are ~~not~~ be filled up by reserved candidates. In our view to avoid these difficulties, ^{with} the petitioners are facing reversion there being absolutely no reason as to why they should be reverted. It is found necessary that adhoc promotion ~~only to make~~ shall continue till the Government finds ~~a~~ suitable candidate to fill the reserved vacancies or till the dereservation is made. Therefore, it is directed that keeping in view the necessary relevant circular delivered to-day they are to fill the vacancies by candidates of reserved and general community categories. The order ~~that~~ already made as an interim measure shall continue. For the aforesaid reasons the reversion orders of the petitioners, S/Shri Rabindranath Pattanayak, Simanchal Dash, Arjuna Charan Sahoo (O.A.267/93) and S/Shri Duryodhan Das and Subash Chandra Mohapatra (O.A.420/93) are quashed. With these directions both the petitions are disposed of. No order as to costs.

1.5 p.m.
 (H. RAJENDRA PRASAD)
 MEMBER (ADMINISTRATIVE)

24 Aug 94

B.K.Sahoo//

(D.P. HIREMATH)
 VICE-CHAIRMAN