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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.273 OF 1993
Cuttack, this the 27th day of November, 1998

Jugal Kishore Adhikari 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.

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(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 27.11.98

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CORAM:

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

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Jugalkishore Adhikari,
Sub-Post Master, Chatra S.O.,
P.S/Dist.Jagatsinghpur Applicant

By the Advocates - M/s A.Routray
S.Mishra
S.Mohanty &
P.K.Padhi.

Vrs.

1. Union of India,
through Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhawan, New Delhi.
2. Superintendent of Post Offices,
Cuttack South Division,
Cantonment Road,
Cuttack-1.
3. Director of Postal Services (Hqrs),
Office of the Chief P..M.G., Bhubaneswar,
Dist.Khurda Respondents

By the Advocate - MrAshok Misra,
Sr.Panel Counsel.

O R D E R

J Som.
SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to the respondents to promote him to the post of HSG-II with effect from 1.5.1992 along with all consequential benefits. The second prayer is for a direction to the Director of Postal Services to dispose of his representation pending with him.

2. Facts of this case are that the applicant was initially appointed as Postman on 24.9.1959. He was promoted as Postal Clerk on 1.5.1966 and was confirmed on 1.3.1969. He was promoted to LSG cadre with effect from 30.11.1983 and is continuing as such. The applicant's case is that he was entitled to be promoted to HSG-II cadre and even though the D.P.C. met twice in July 1992 and on 20.3.1993, his case was not considered and his juniors were considered and promoted. He made representations to the authorities and sent reminders, but without any result, and that is how he has come up in this application with the prayers referred to earlier.

3. Respondents in their counter have stated that the applicant completed 26 years of service in the basic cadre of Postal Assistant on 30.4.1992 and his case for promotion to HSG-II cadre was due to be considered by the D.P.C. The D.P.C. meeting was held on 30.9.1992 to consider the cases of those who have completed 26 years of service by 30.6.1992 for promotion to HSG-II cadre. The applicant's case was also put up before the D.P.C. which considered his case for promotion but kept their recommendation in a sealed cover. This was because the applicant while he was working as S.P.M., Charbatia Sub-Post Office, from 18.5.1989 to 10.6.1991, was involved in a misappropriation case relating to S.B.Account. The respondents have given the details of the case and have mentioned that the case was taken up by the Central Bureau of Investigation, Bhubaneswar, for investigation

S. J. M.

and a case was registered under different Sections of Indian Penal Code and Prevention of Corruption Act against the applicant. Because of pendency of the investigation, the recommendation of D.P.C. with regard to the applicant was put in the sealed cover. The respondents have further stated that in the next DPC meeting held on 1.4.1993 the case of the applicant was considered and his case has still been kept in sealed cover. He filed a representation to Chief Post Master General. His representation was considered and a Review D.P.C was ordered. The Review D.P.C. considered his case on 1.10.1993, but did not recommend his promotion. The respondents have stated in paragraph 6 of the counter that because of the case registered by the Central Bureau of Investigation, the D.P.C. had kept the recommendation relating to the applicant in sealed cover and other officials junior to the applicant who have been found suitable have been recommended for promotion. On the above grounds, the respondents have opposed the prayers of the applicant.

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4. The applicant in his rejoinder has submitted that Superintendent of Police, Central Bureau of Investigation, in his letter No. 3651/3152(A) 91 BBSR dated 10.6.1996 addressed to Superintendent of Post Office, Cuttack (S) Division informed him that there was no vigilance case against the applicant and this was also informed to Chief Post Master General. But in spite of this, no promotion has been given to the applicant. That is how the applicant has reiterated his prayers in the rejoinder.

5. We have heard Shri A. Routray, the learned counsel for the petitioner and Shri Ashok

Misra, the learned Senior Panel Counsel appearing for the respondents and have also perused the records.

6. It is submitted by the learned counsel for the petitioner that the applicant has in the meantime retired and as no C.B.I. case is pending against him, according to the established procedure, the sealed cover should be opened and the recommendation of the D.P.C. as made in the sealed cover should be worked out. As the averment of the applicant that Superintendent of Police, C.B.I. has written to Superintendent of Post Offices, Cuttack (South) Division stating that no vigilance case is pending against the applicant has been made by the applicant in his rejoinder, the respondents have naturally not been able to make any submission on this point. In consideration of the above, this O.A. is disposed of with a direction to the respondents that in case the C.B.I. investigation in the alleged lapses of the applicant has been closed and the applicant has not been chargesheeted and in case no departmental proceeding had been initiated or is pending against him in connection with the lapses, then as per the established procedure the respondents should open the sealed cover and act in accordance with the recommendation of the D.P.C. In case the D.P.C. had recommended his promotion, then he should be promoted from the date recommended by the D.P.C. In case D.P.C. in their recommendation kept in sealed cover have not recommended the case of the applicant, then no further action need be taken. In case the applicant had been recommended for promotion by the D.P.C. and he is promoted in accordance with the direction given by us,

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then he should be given the consequential financial benefits and his retiral benefits should also be revised accordingly. *No costs*

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *27.11.98*

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