

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 338 OF 1993
Cuttack, this the 10th day of August, 1999

Balunkeswar Tripathy 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
10/8/99

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CORAM:

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

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Sri Balunkeswar Tripathy, aged years,
son of late 1Babaji Tripathy, Vill/PO-Nimasahi,
Via-Narasinghpur, Dist.Cuttack Applicant

Advocates for applicant - M/s S.Kr.Mohanty
S.P.Mohanty.

Vrs.

1. Union of India, represented by its Secretary,
Department of Posts, Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Cuttack South Division,
Cuttack.
3. Chief Post Master General,Orissa Circle, Bhubaneswar.
4. Sri Ananda Ch.Naik,Postal Asst., Narasinghpur S.O.,
P.O-Narasinghpur, District-Cuttack.

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Respondents

Advocate for respondents - Mr.U.B.Mohapatra
A.C.G.S.C.

O R D E R (ORAL)

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of
Administrative Tribunals Act, 1985, the petitioner has
prayed for promotion to HSG-II cadre with effect from
1.5.1992 with consequential benefits.

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2. The applicant's case is that he joined the postal service as a Clerk on 5.5.1966 and was promoted to LSG cadre after sixteen years of service on 30.11.1983. A departmental proceeding initiated against him on 11.3.1993 ended with stoppage of one increment for a period of three months without cumulative effect. This period of punishment was over on 30.6.1992. The applicant completed twenty-six years of service on 1.5.1992 and was thus eligible for promotion to HSG-II cadre. But by order dated 7.5.1993 (Annexure-1) the applicant was promoted to HSG-II cadre with effect from 1.1.1993 instead of 1.5.1992, i.e., the date of completion of twenty-six years of service. However, the applicant accepted his promotion to HSG-II cadre with effect from 1.1.1993 under protest. He has pointed out that one Ananda Chandra Naik (respondent no.4), a person junior to him and placed under the similar circumstance, was given promotion to HSG-II cadre with effect from 1.7.1992 even though on the relevant date the period of punishment had not expired. Because of this, the applicant has come up with the prayer referred to earlier.

3. The departmental respondents in their counter have pointed out that Ananda Chandra Naik (respondent no.4), the person junior to the applicant, whose case has been mentioned by the applicant, was actually promoted to HSG-II cadre with effect from 1.1.1993, the same date as that of the applicant. But because of typographical error the date was mentioned as 1.7.1992 and it has been corrected subsequently. It is therefore not necessary to refer to the case of Ananda Chandra Naik (respondent no.4). The departmental respondents in their counter have pointed out that the

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applicant was proceeded against under Rule 16 of CCS (CCA) Rules and was punished with stoppage of one increment for a period of three months in order dated 21.4.1992. Thus the period of three months started from 1.5.1992 and was over on 31.7.1992. The departmental respondents have pointed out that as per departmental instructions (Annexure-R/1) relating to promotion of incumbents under BCR Scheme, the cases of officers who had completed twenty-six years of service in basic cadre in between 1.1.1992 and 30.6.1992 to HSG-II cadre were to be taken up for consideration through Departmental Promotion Committee. Accordingly, the promotion case of the applicant was put up before the D.P.C. held on 3.9.1992. But as by 30.6.1992 the applicant's punishment was still in force, he could not be recommended for promotion. The next D.P.C. which met on 1.4.1993, recommended the promotion of the applicant with effect from 1.1.1993. The departmental respondents have pointed out that even though the effect of the applicant's punishment was over on 31.7.1992 there was no illegality in promoting the applicant with effect from 1.1.1993. In view of the above, the departmental respondents have opposed the prayer of the applicant.

4. Though notice has been issued to private respondent no.4, he has neither appeared nor filed counter in this case.

5. We have heard Shri S.P.Mohanty, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel appearing for the departmental respondents and have perused the records.

6. The statement of the applicant that he had completed twenty-six years of service on 1.5.1992 is not correct because he had joined the service on 5.5.1966. His statement that the punishment order spent itself by 30.6.1992 is also not correct because the punishment was

given effect to from 1.5.1992 and was only over by 31.7.1992. Thus, the sole point for consideration is whether the applicant is entitled to promotion from 1.8.1992 after expiry of the effect of the punishment or he has been rightly promoted with effect from 1.1.1993. As earlier noted the applicant has given example of another person, Ananda Chandra Naik (respondent No.4) whose case, according to the applicant, is similar to him, but respondent no.4 has been promoted from 1.1.1993. The promotion under BCR Scheme is not automatic on completion of twenty-six years of service. Instructions provide that person with twenty-six years of satisfactory service can be promoted. This requires DPC to meet and consider the record of the eligible officer to decide whether his service is satisfactory or not. In this case, the DPC met on 1.4.1993. The previous ^{D.P.C} met on 3.9.1992. The time gap between the two DPCs cannot be held to be unreasonably long. As the DPC had recommended him for promotion from 1.1.1993, there is nothing illegal in giving him promotion with effect from 1.1.1993. In view of the above we hold that the applicant is not entitled to be promoted from 1.5.1992, as asked for by him, because by that date he had not completed the period of twenty-six years of service and he has been rightly promoted with effect from 1.1.1993.

7. In the result, therefore, the Original Application is held to be without any merit and is rejected but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
10.8.99
VICE-CHAIRMAN