

1.5
4
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 35 OF 1993
Cuttack this the 9th day of July, 1999

(PRONOUNCED IN THE OPEN COURT)

Subhas Chandra Samaddar

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,

U. S.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
9.7.99

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 353 OF 1993
Cuttack this 9th day of July, 1999

CORAM:

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

...

Subhas Chandra Samaddar,
Asstt.Engineer of Bhubaneswar Telecom(Civil)
Sub-Divn., No.1(Unit-IX) AT Telecom
Administrative Building,
Bhubaneswar(Dist: Puri)

...

Applicant

By the Advocates : M/s.Y.Mohanty,
P.C.Biswal
B.N.Mohanty
M.R.Mohanty

-Versus-

1. Union of India represented through
the Secretary to Govt. of India in the
Ministry of Communication, Sanchar Bhawan
20-Ashoka Road, New Delhi:110001
2. Chairman of Telecom Commission of India
At: Sanchar Bhawan, 20-Ashoka Road
New Delhi-110001
3. The Director General of Telecommunications
At: Sanchar Bhawan, 20-Ashoka Road,
New Delhi-110001
4. The Senior Deputy Director General(C.W)
D.O. At: Sanchar Bhawan, 20-Ashoka Road,
New Delhi-110001
5. The Asst.Director General(C.W)
At: Sanchar Bhawan, 20-Ashoka Road,
New Delhi-110001
6. Sri K.K.Pul, Surveyor of Works,
Office of the S.S.W(C) Telecommunications
P-36, C.R.Avenue, Yagayog Bhawan,
Calcutta-700012
7. Sri R.C.Arofa, Surveyor of Works,
Office of the S.S.W(C) Telecommunications,
Samrat Bhawan, Plot No.A-7-8-9,
Ranjit Nagar, New Delhi.110008

6

8. Sri R.K.Gangopadhyay,
Executive Engineer, Postal Civil Division,
5th Floor, P.M.G.Building, G.P.O.
Compound, Patna-800001
9. Sri S.C.Roychoudhury
Executive Engineer, Postal Civil Division
Gauhati
10. Sri P.Saha, Executive Engineer,
Metropolitan Telephone Nigal Ltd.,
Bombay, Moharastra
11. Sri K.L.Dutta, Executive Engineer,
Telecom Civil Division, Dewan Road,
Muzjaffarpur-842001
12. Sri M.K.Basak, Surveyor of Works,
Office of S.S.W.Telemc Civil,
4th floor, Sion P.O.Building,
Bombay-400022

...

Respondents

By the Advocates : Mr.B.Das,
Addl.Standing Counsel
(for Res.1 to 5)

...

ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has made the following prayers:

S Jm

- 1) He should be treated as senior to Res.6 to 12 in the cadre of Assistant Engineer;
- 2) Order dated 12.11.1992 at Annexure-3 promoting Res.6 to 12 to the post of Executive Engineer should be quashed;
- 3) The Departmental Res.1 to 5 should be directed to promote the applicant to the rank of Executive Engineer at least from 12.11.1992, the date when the officers junior to him (Res.6 to 12) got promotion to the rank of Executive Engineer; and
- 4) The departmental respondents(Res.1 to 5) should be directed to give promotion to the applicant by fixing proper roster point as the applicant is a member of Scheduled Caste.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts

of this case. The applicant's case is that he joined service as Building Overseer/Junior Engineer(Civil) on 31.5.1965 and was promoted to the post of Assistant Supervisor on adhoc basis on 3.1.1977 and was made regular in that post on 20.3.1978. Res.6 to 12 joined as Assistant Engineer, firstly on adhoc basis on dates after joining of the applicant as Assistant Supervisor(C) on adhoc basis. They also became Assistant Engineer(Civil) from 20.3.1978. Originally these private respondents 6 to 12 were shown juniors to the applicant, but later on they were shown seniors and were given adhoc appointment to the post of Executive Engineer. In the context of the above, the applicant has come up in this O.A. with the prayers referred to earlier.

3. Private respondents 6 to 12 were served with notices, but they have neither appeared nor filed any counter.

4. The departmental respondents in their counter at Page 5(Para-h) have submitted that private respondents 6 to 12 have been reverted except Res.8, who had obtained stay from the Guahati Bench of the C.A.T. and is continuing in the higher post on the basis of the stay order. Departmental respondents have further submitted that adhoc promotion of Res.6 and 8 to 12 have been discontinued. Hence the prayer of the petitioner to give him promotion to the post of Executive Engineer from the date these private respondents got promotion has become infructuous.

As regards question of seniority, the departmental respondents at page-7 (Para.12) of the counter ha

counter that a provisional seniority list has already been issued on 11.5.1993 and objections have been called for from the concerned official vide Annexure-R/5. On the above grounds the departmental respondents have stated that the Original Application has become infructuous.

5. Heard Shri Y.Mohanty, learned counsel for the applicant and Shri B.Das, learned Addl. Standing Counsel appearing for the departmental respondents and also perused the records. Learned Addl. Standing Counsel has submitted that he has been instructed by the departmental authorities in letter dated 10.6.1999 that in the meantime the applicant has been promoted to the post of Executive Engineer with effect from 10.7.1996 and therefore, the application has become infructuous.

As already noted one of the prayers of the applicant is to quash promotion of Res.6 to 12 to the post of Executive Engineer or to promote him to the rank of Executive Engineer from the date Res.6 to 12 have been so promoted. In view of the fact that departmental authorities have indicated that Res. 6 to 12 have already been reverted to the post of Assistant Engineer, this prayer has become infructuous and the petitioner has no right to get promotion to the post of Executive Engineer from the date Res.6 to 12 were give adhoc promotion.

The fact that private Res.8 is continuing in the post of Executive Engineer by virtue of the stay order obtained from the Guahati Bench as stated by the respondents in their counter, would ~~not like change the~~ above situation. In view of this we hold that this ~~prayer~~ has become infructuous.

6. As regards prayer for correct fixation of seniority list, the departmental respondents have stated

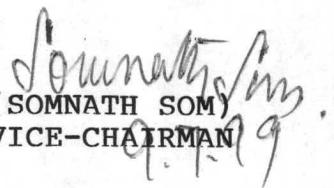
that they have already been issued provisional seniority list calling for objections, if any. In case the applicant has filed any objection with regard to position in the seniority list, the matter will be disposed of by the departmental authorities in accordance with law. The petitioner is given liberty to approach the Tribunal if he feels aggrieved with regard to passing of final orders by the departmental authorities on his objection if any. This prayer is, therefore, disposed of accordingly.

Last prayer of the applicant is to give him promotion to the post of Executive Engineer keeping in view the correct roster point on reservation for Scheduled Castes as the applicant belongs to S.C. community. As we note, the applicant has already been promoted to the post of Executive Engineer on 10.7.1996. The question with regard to determination of roster point is a separate cause of action and therefore, this cannot be dealt in this application.

In the result the application is disposed of as infructuous, but without any order as to costs.


(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K. SAHOO


(SOMNATH SOM)
VICE-CHAIRMAN
9.7.79