

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH.

Original Application No 41 of 1993.

Cuttack, dated the 3rd October, 1994.

Prafulla Kumar Rout ...

Applicant.

Versus

Union of India and others ...

Respondents.

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

03 OCT 94


(D.P. HIREMATH)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

Original Application No. 41 of 1993

Cuttack, dated this the 3rd day of October, 1994.

CORAM:

THE HON'BLE MR. JUSTICE D. P. HIREMATH, VICE-CHAIRMAN.

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THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

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Prafulla Kumar Rout, aged 55 years,
s/o Sri Pitabas Rout, Vill-Baniapada,
P.O. Gondiapatna, P.S. Gondia, Dist-Dhenkanal,
at present working as Asst. Director,
Census Operations, Orissa, Unit-9,
Bhubaneswar-751007, Dist-Puri.

... Applicant.

By Advocates ... M/s. Bimal Pr. Das,
Bikram Pr. Das, S. Das,
R. N. Barik, Advocates.

Versus

1. Union of India, represented through
Secretary, Ministry of Home Affairs,
Central Secretariat, New Delhi.
2. Registrar General and Census Commissioner,
India, Kota House, 2/A, Mansingh Road,
New Delhi - 110011.
3. Director of Census Operation, Orissa,
Janaganana Bhawan, Janapath,
Bhubaneswar-751007.
District- Buri.

... Respondents.

By Advocate .. Mr. Ashok Misra,
Sr Standing Counsel (Central).

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ORDER

D. P. HIREMATH, V.C., Heard applicant's counsel and Shri Ashok Misra,
learned Senior Standing Counsel (Central) for respondents.

2. The applicant who is officiating as Assistant
Director, Census Operations, has sought to fix his

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seniority by taking into account his ad hoc service in that post from 27.9.1980, to revise the seniority list vide Annexure-8 and also direct promotion to be given to the post of Deputy Director on regular basis.

The facts are brief, simple and not in dispute. His promotion as Investigator was regularised on 1.9.1979 and to lay a claim to the post of Assistant Director, his services as Investigator are termed as "feeder service". To get eligibility to be promoted as Assistant Director, qualifying service of 5 years is the *sine qua non*. Therefore, in normal circumstances, other things being as they should be, ~~the date for~~ ~~to get promoted~~ ^{on} to the post of Assistant Director was from 1.9.1984. When the vacancy arose in the post of Assistant Director, ~~on~~ he was given adhoc promotion on that date and he continued to serve on ad hoc basis in the said post till his services were regularised on 28.7.1989. It may also be noted here that when ~~4 years~~ ^{the term of ad hoc} service was completed a break was made, ~~but~~ ^{to} continued in the same post on the same day. Now the applicant wants regularisation of his services as Assistant Director right from the date of his first appointment on adhoc basis i.e. 27.9.1980.

3. It is contended inter alia on behalf of the respondents that it was a selection post and after consulting the Union Public Service Commission, his services were regularised with effect from 28.7.1989. The simple point for consideration is whether the applicant's services could not have been regularised

with effect from 1.9.1984 itself on which date he became qualified for being considered for promotion. Shri Ashok Misra invited our attention to Annexure-R/5 dated 18.8.1989 which is a notification stating that on the recommendation of the Departmental Promotion Committee and in consultation with the Union Public Service Commission, the President was pleased to appoint among others the applicant herein as the Assistant Director of Census Operations etc. We have no material before us as to when exactly the Departmental Promotion Committee was convened and why even after he became qualified to be promoted, it took 5 years for the Departmental Promotion Committee to consider his promotion. ^{were} Squarely, there ~~was~~ ^{were} laches on the part of the D.P.C. ~~not~~ to consider his promotion within ~~the~~ reasonable time though he became qualified to be promoted. In our view, therefore, when there are no adverse remarks against him and his Confidential Rolls were quite satisfactory which should be presumed in the absence of contention of any adverse remarks against him, there was no reason why his services should not be regularised from 1.9.1984 itself. Though the applicant has prayed that his services ought to have been regularised from 27.9.1980 itself, we are not inclined to agree with the applicant's counsel in this behalf. But when he became qualified to be considered for the post on 1.9.1984, in the absence of any adverse remarks he is entitled to get his services

and we hold and direct accordingly
 regularised from 1.9.1984 and he shall be given all
 consequential benefits accruing to him and if he is due and
 eligible for promotion to the post of Deputy Director, he is
 entitled to be considered for that post as well. These
 directions shall be carried out within 60(sixty) days
 from the date of receipt of a copy of this order and the
 seniority list shall be prepared accordingly. No costs.

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 (H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)

03 oct 94.

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 (D. P. HIREMATH)

VICE-CHAIRMAN.

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