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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 494 OF 1993.

Cuttack, this the 17th day of August, 1999 .

Lala Pramod Chandra Ray. Applicant.
Vrs.
Union of India & 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 .

(G. MARASIMHAM)
MEMBER(JUDICIAL)

Somnath Soni
(SOMNATH SONI)
VICE-CHAIRMAN
17.8.99

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO. 494 OF 1993.

Cuttack this the 17th day of August, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.)

Lala Pramod Chandra Ray, Aged about 48 years,
Son of late Lala P.S. Ray at present working
as TOA(T), Gr. II, Central Telegraph Office,
Town and District. Cuttack.

.... Applicant.

By legal practitioner : M/s. A. Deo, B.S. Tripathy, .D.K. Sahoo,
P.K. Panda, Advocates.

Vrs.

1. Union of India represented by its
Secretary, Department of Telecom,
Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecommunications,
Orissa Circle, At/Po. Bhubaneswar, Dist. Khurda.
3. Superintendent, Central Telegraph Office,
At/Po/Dist. Cuttack.

.... Respondents.

By legal practitioner; Mr. B. Dash, learned Additional Standing
Counsel (Central).

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J. Som.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order of reversion dated 2-9-1992, at Annexure-2. He has also claimed financial benefits consequent upon the quashing of the order of reversion.

2. Respondents have appeared and filed counter opposing the prayers of applicant.

3. **Fact** of this case falls within a small compass and can be briefly stated. Applicant had joined the service as a Telegraphist on 21.9.1965 and had completed 26 years of service on 21.9.1991. In order dated 27.12.1991, at Annexure-1 he was promoted to the post of TAO(T), Gr. III w.e.f. 22.9.91 under the BCR scheme on completion of 26 years of service. In this order, it was mentioned that the promotion is on purely temporary and adhoc basis and will not entitle claim of the officials for regular absorption. Later on in order dated 2.9.1992, at Annexure-2, the Chief General Manager, Telecom. Circle, Respondent No. 2 terminated the adhoc promotion of applicant to the Grade of TOA(T), Gr. III and reverted him to his substantive post of TAO(T), Gr. II. Applicant has submitted that against this order of reversion he has filed an appeal /representation but without any result. He has further stated that the reversion order has been passed without giving him any opportunity to show cause and therefore, he has come up with the prayers referred to earlier.

S. Som.

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4. Respondents, in their counter, have pointed out that on completion of 26 years of service, applicant was given adhoc promotion under the BCR scheme on purely temporary and adhoc basis. He was reverted to the lower post/cadre because of reversion which arose out of the admitted case of fraud in booking of Telegram and participation in strike. It is further stated that the DPC which met on 31.8.1992 and 26.9.1993 considered the case of applicant for regular promotion but due to adverse entry in his CCRS, he was not recommended for promotion. Respondents have stated that the applicant was given adhoc promotion, even before holding the DPC meeting because at that time, the constitution of the DPC was under correspondence with the higher authorities. On the above grounds the Respondents have opposed the prayer of applicant.

5. This 1993 matter has come up for hearing today from the warning list notified more than a month ago. Today when the matter was called, Shri A. Deo, learned counsel for the applicant and his associates, were not present. No request has also been made on their behalf seeking adjournment. In view of this, it was not possible to drag on the matter indefinitely. We have, therefore, heard Mr. B. Dash, learned Additional Standing Counsel appearing for the Respondents and have also perused the records. We have also perused the records of the disposed of Original Application No. 59/90 in which the order of this Tribunal in TA Nos. 320/86 and 336/1986 has been enclosed. These documents have also been perused.

Sum.

6. Admittedly applicant has completed 26 years of service by 22.9.1991 and he was therefore, entitled for consideration for promotion under BCR scheme on completion of 26 years of service but BCR scheme provides that promotion is to be given on the basis of satisfactory ~~of~~ records of service. This necessarily means and it is also the practice that such promotion is given after the cases of persons are recommended for promotion under BCR scheme by the DPC. In the instant case, adhoc promotion was given in order at Annexure-1 without holding the DPC meeting and in the order itself it was made clear that the promotion is adhoc and the officials are not entitled to claim for regular absorption or further continuance. Thereafter, DPC met twice but did not recommend the case of the applicant. Respondents stand is that this was on the basis of the admitted case of fraud. The Tribunal in TA No. 320/1986 quashed the charges against the applicant on his depositing Rs. 27,50p. It has been stated by the Respondents that the Tribunal had not exonerated the applicant and the applicant having repaid the above amount the fraud committed by the applicant is admitted. We are unable to accept the above contention. On going through the records of the earlier case, we find that this Tribunal had quashed the charges levelled against the applicant. When the charges were quashed, it can not be said that the Tribunal has held the applicant guilty of the charges or that the petitioner had admitted the charge. Petitioner had deposited the amount of Rs. 27,50p. on the direction of this Tribunal but he having denied the charges in the Departmental proceeding, his

depositing the amount would not amount in law to his admission to the charges. This contention of the Respondents is held to be without any merit and is rejected. But the fact of the matter is that according to the Respondents because of adverse entry in CRS of applicant, he was not recommended by the DPC. Applicant had not denied the above assertion of the Respondents in the counter by filing rejoinder. In view of this, we are bound to hold that the DPC had not recommended the case of applicant, after considering the CRS of applicant. In view of the fact that his case was not recommended by the DPC, the authorities have rightly reverted the applicant from the Post of TOA(T), Gr.III to TOA(T), Gr.II in the order at Annexure-2. No fault, therefore, can be found with the Departmental Respondents for issuing the order at Annexure-2. We also note that subsequently in a later meeting of the DPC, applicant has been adjudged suitable and he has been promoted in order dated 25.11.1993 under the BCR Scheme.

7. In view of the above, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him in this Original Application which is accordingly rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
17.8.99