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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 506 of 1993

Cuttack, this the 19th day of August, 1994.

B.B.Patra

Applicant.

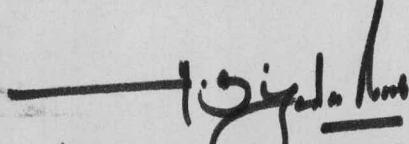
versus

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 Central Administrative Tribunals or not ?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

19 AUG 94


(D.P. HIREMATH)
VICE-CHAIRMAN

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CUTTACK BENCH.

Original Application No. 506 of 1993

Cuttack, dated this the 19th day of August, 1994.

CORAM:

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

A N D

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

Shri B.B.Patra, s/o late Maguni Patra,
Sr. Project Manager, S.E.Railway,
Station Road Cuttack, At/P.O./Dist.Cuttack.

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Applicant.

By Advocates M/s. G.A.R. Dora,
B. Narasingh,

Versus

1. Union of India, through the Secretary
representing Railway Board, Govt. of
India, Ministry of Railways (Rail Bhawan),
New Delhi.

2. General Manager,
S.E.Railway, Garden Reach,
Calcutta-43.

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Respondents.

By Advocate Shri L. Mohapatra,
Standing Counsel (Railways).

O R D E R

D.P.HIREMATH, V.C., The brief facts for the purpose of disposal of this application are that by order reflecting in Annexure-3 the petitioner herein who was working in Group 'B' Officers Grade in Civil Engineering Department of South Eastern Railway, was promoted and appointed substantively to the Junior Scale of Indian Railway Service of Engineers (for short, I.R.S.E.) with effect from 14.10.1985 and

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after this order of promotion he joined his new post and worked till 13.7.1993. On that date an order as per Annexure-7 came to be passed which is as under :

" 2. The substantive appointment w.e.f.14.10.85 of S/Sh. H. N. N. Murthy, P.C.Cherian, D.Ranganayakulu, P.V.S.Krishnan and B.B.Patra, group 'B' Officers of Civil Engineering Department of S.E.Railway in the junior scale of IRSE under Ministry's notification No.E(GP)83/1/49 dated 13.11.85, published in part-I, Section-2, in the Gazette of India dated 7.12.85 at page 1511(English) and page 1501(Hindi) is hereby cancelled. "

It is apparent on the face of it that the petitioner was not given any opportunity to be heard before his promotion was cancelled and the order is so cryptic that no one could spell out the reasons for such cancellation. When this order came to be challenged by the applicant, the respondents have filed a counter justifying the cancellation and spelling out the reasons for doing so. It is apparently clear that the minimum that was required of the respondents was to hear the petitioner as required by the principles of natural justice before his promotion to substantive post came to be cancelled. Assigning reasons by way of counter does not amount to giving him the said opportunity of being heard. Without touching the merits of the order impugned we are of the clear view that the Notification and the order that has followed ^{are} is wholly unsustainable and liable to be quashed and we quash the same with liberty to the respondents to give opportunity to the petitioner to be heard if at all they want to proceed with such

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cancellation and then pass suitable orders. For the same reasons also, Annexure-8 stands cancelled. It is however made clear that this order is confined only to the petitioner who has challenged this order before us.

2. This order is passed after hearing Mr. G. A. R. Dora, learned counsel for the applicant and Mr. L. Mohapatra, learned Standing Counsel (Railways) for the respondents.

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(H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)

19 AUG 94

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(D. P. HIREMATH)
VICE-CHAIRMAN.

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