

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A. No. 550 OF 1993

Cuttack this the 9th day of May, 1995.

Sri Premananda Sahu	..	Applicant
		Vrs.
Union of India & Others	...	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *no*

1.5.95  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

09 MAY 95

*D. P. Hiremath*  
(D. P. HIREMATH)  
VICE CHAIRMAN

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COMRA:

THE HONOURABLE MR.JUSTICE D.P. HIRE MATH, VICE CHAIRMAN

AND

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

....

Shri Premananda Sahu,  
Son of late Balabhadra Sahu,  
Working as Sub Post Master,  
Saintala Sub Post Office,  
At/Po-Saintala, Dist-Bolangir.

... ... Applicant

By the Advocate ... M/s. Pradipta Mohanty,  
D.N. Mohapatra,  
Advocates.

Versus

- 1) Union of India represented by  
the Director General of Posts,  
Dak Bhawan, Ashok- a Road, New Delhi.
- 2) Superintendent of Post Offices,  
Bolangir Postal Division,  
At/Po/Dist-Bolangir.
- 3) Director of Postal Services,  
Sambalpur Region, At/Po-Dist-  
Sambalpur.
- 4) Postmaster General, Sambalpur Region,  
At/Po/Dist-Sambalpur.

... ... Respondents

By the Advocate ... Mr. Ashok Mishra, Senior Standing  
Counsel (Central).

....

ORDER

D.P. HIREMATH, V.C. The applicant has prayed for a direction to the respondents to consider and to select him for promotion to Higher Selection Grade-II with effect from the date when his juniors were promoted in Annexure-1, considering all his service particulars as available and the date DPC met for selecting employees for promotion. Though the other prayer is that to direct the respondents to permit him to cross Efficiency Bar, he does not press it for the present. We are therefore to consider the only prayer that he should be considered for promotion to the Post of Higher Selection Grade-II.

2. He joined service in the Postal Department on 24.8.1963 as Postal Assistant and promoted <sup>to</sup> as Lower Selection Grade on 30.11.1983 under the Time Bound promotion scheme, as he had put in by that time more than sixteen years of service. When he was to <sup>be considered</sup> consider for Biennial Cadre Review being promoted under the (B.C.R.) scheme and the DPC met for that purpose on 31.3.1991, a departmental proceeding was initiated against him on 2.1.1992 under Rule-16 of the CCA( CCS) Rules and charge Memo was drawn. For this reason, the DPC did not consider him for promotion and kept its views and recommendations in a sealed cover. These are the facts necessary for the disposal of this application. It is also undisputed that subsequently the enquiry was ended on 23.3.1993 imposing punishment directing recovery of certain amount due to supervisory lapses found proved against him in the enquiry.

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The punishment so imposed is the subject matter of another Original Application pending before this Tribunal and it is not necessary to go into the merit of that case at this stage as we have only to consider his record as on 31.12.1991 when the DPC met to consider his promotion with effect from 1.10 1991.

3. The only contention raised by the respondents' counsel is that because the departmental enquiry was pending on the date the DPC met, though there was no initiation of proceeding in the strictest term by drawing of a chargesheet the enquiry was <sup>at</sup> a preliminary stage and therefore, the DPC kept its views and recommendations in a sealed cover. This is all the counter filed by the respondents and according to them because of <sup>the</sup> stage at which the departmental proceeding was initiated at that time he was not promoted.

4. It is well settled that if on the date the DPC met to consider and on the due date of promotion his record was clean and no adverse remarks against him or any punishment <sup>in force</sup> at that time simply because enquiry was pending at a preliminary stage or <sup>that-</sup> after the charge sheet is filed the same can not be taken into consideration. Needless to say that the enquiry must be deemed to have been initiated only on the date of the chargesheet is drawn. That being so, the petitioner if due otherwise could not have been denied promotion on this ground alone. Irrespective of the result of the case

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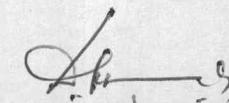
that is now pending challenging the punishment, it is only necessary that his promotion under the B.C.R. <sup>should be</sup> was considered as due on 1.10.1991 on which date his juniors were promoted and he having put in 26 years of service by <sup>to be entitled</sup> that time for such promotion. We accordingly allow this application and direct the respondents to open the sealed cover and consider the recommendations made by the DPC and further consider him for promotion as on date 1.10.1991 on which he has become due for promotion. With these observations and directions the application is disposed of.

5. As we have not considered the other prayer of the petitioner with regard to quashing of Annexure-4 regarding his EB and kept the question open, MA 129 of 1995 pending in this case is also disposed of accordingly. No order as to costs.

6. The compliance of this order shall be made within 30 days from the date of receipt of a copy of this order.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)  
09 MAY 91

KN Mohanty, CM.

  
(D.P. HIREMATH)  
VICE CHAIRMAN