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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.586 OF 1993
Cuttack this the 23rd day of August, 1999

(PRONOUNCED IN THE OPEN COURT)

Narasingha Gantayat

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 .

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.8.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.586 OF 1993

Cuttack this the 23rd day of August, 1999

CORAM:

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

...

Shri Narasingha Gantayat, aged about 37 years
Son of Late Natabara Gantayat,
at present working as Motor Transport Driver,
Naval Armament Inspectorate, Sunabeda.
District: Koraput

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Applicant

By the Advocates : M/s.Devanand Misra
R.N.Naik, A.Deo
B.S.Tripathy
P.Panda

-Versus-

1. Union of India represented by its
Secretary, Department of Defence
E-in-C's Branch, Army Headquarters,
New Delhi
2. Flag Officer, Commanding-in-Chief,
Headquarters, Eastern Naval Command,
Visakhapatnam, Andhra Pradesh
3. Deputy General Manager
Naval Armament Depot, Sunabeda
District: Koraput
4. Officer-in-Charge, Naval Armament
Inspectorate, Sunabeda, District: Koraput

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Respondents

By the Advocates : Mr.S.B.Jena
Addl.Standing Counsel
(Central)

...

ORDER

when

MR.SOMNATH SOM, VICE-CHAIRMAN: On 14.1.1994, / this Original Application came up for admission. Learned counsel for the petitioner indicated that he did not press the prayers 8(A) and (C) of the Original Application and he limited his prayer to the relief claimed under para-8(B) of the Original Application. In this Application the applicant has prayed for direction to respondents to declare him as Motor Transport Driver Gr.I. Respondents have appeared and filed counter copy of which has also been served on the learned counsel for the petitioner. They have opposed this prayer of the applicant.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Only such of the averments which are relevant to his prayer for declaring him as Motor Transport Driver Gr.I are being referred to.

3. According to applicant he joined service on 13.1.1983 as Motor Transport Driver Gr.II at I.N.S. Chilka. He has stated that vide letter dated 14.8.1990 he has qualified for the Motor Transport Deiver Gr.I and from January, 1992, he is receiving the salary of Motor Transport Driver Gr.I, but till date he has not been declared as Motor Trnasport Driver Gr.I; that is why he has come up in this application with the prayers referred to earlier.

4. Respondents in their counter have stated that Motor Transport Driver, to which cadre the applicant belongs is on the Command Roster for the purpose of

seniority, tranfers, promotions etc. In the Eastern Naval Command there are various Units situated at Visakhapatnam and also at the outstations like INS, Chilka, INS Rajali etc. The M.T. Drivers working in all these units and at different outstations come under the common roster for the purpose of their seniority and promotions. The seniority^{list}/of Gr.II Drivers has been prepared and circulated in letter dated 11/16th Autust, 1993. Applicant's name is shown against Sl.No.74 in that seniority list. The applicant has received this seniority list in token of which he has signed against his name shown against Sl. No.74. A copy of this list with applicant's signature has been annexed as Annexure-R/1. The respondents have further stated that as the applicant in accordance with seniority is placed at Sl. No.74, there are 73 Drivers above him. Even though the applicant has actually passed the trade test and qualified to be promoted as Motor Transport Driver Gr.I, he can be so promoted only in his turn and there being 73 Motor Transport Drivers Gr.II above him he cannot be promoted to the rank of Motor Transport Deiver Gr.I; that how the respondents have opposed the prayer of the applicant.

5. This 1993 matter has come up for hearing from the Warning List which has been notified more than a month ago. To-day, when the matter was called^{on behalf of}/learned counsel for the applicant Shri A.Deo it was submitted that he would argue the matter, but learned counsel for the applicant Shri A.Deo and his Associates were absent when called nor any request has been made on their behalf seeking adjournment. In view of this, this being an old matter and pleadings having been completed long ago, the matter cannot be allowed to drag on indefinitely. We have

therefore, heard Shri S.B.Jena, learned Addl.Standing Counsel appearing for the respondents and have perused the records.

6. As earlier noted the applicant has confined his prayer in this petition only for a direction to respondents to promote him to the rank of M.T.Driver Gr.I. He has stated that he has qualified in the trade test and from January, 1992, he is receiving the salary of M.T.Driver Gr.I. Respondents in their counter have denied that the applicant is getting the salary of M.T.Driver Gr.I from January, 1992. In support of his contention that he is getting the salary of M.T.Driver Gr.I, the applicant has not produced any document and therefore, on the face of denial of the respondents, this contention of the applicant cannot be accepted.

7. It is admitted between the parties that the applicant has qualified in the trade test, but by merely qualifying the trade test, he cannot be promoted to M.T.Driver Gr.I. For that there ^{have} ~~are~~ to be vacancies in the post of Gr.I M.T.Drivers. There are 73 persons above the applicant as per the seniority list and therefore, his case can only be considered after the 73 persons above him are promoted. In consideration of this we hold that the prayer for promotion of the applicant to the post of M.T.Driver, Gr.I is without any merit and the same is, therefore, rejected, but without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 22.8.99

B.K.SAHOO