

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 137 OF 1994.

Cuttack, this the 7th day of February, 2000.

NAKUL JAGADAL.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

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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. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.137 OF 1994.

Cuttack, this the 27th day of February, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

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NAKUL JAGADAL,
POSTAL ASSISTANT,
SAMBALPUR H.O.,
SAMBALPUR.

....

APPLICANT.

By legal practitioner: Mr. D. P. Dhalsamant, Advocate.

-Versus-

1. Union of India represented through
Chief Postmaster General, Orissa
Circle, Bhubaneswar-751 001.
2. Postmaster General, Sambalpur Region,
Sambalpur-1.

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RESPONDENTS.

By legal practitioner : Mr. A. K. Bose, Senior Standing Counsel
(Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Som.
In this Original Application under section 19
of the Administrative Tribunals Act, 1985, the applicant
has prayed for a direction to the Respondents to give
promotion to applicant under One Time Bound Promotion
(in short OTBP) on completion of 16 years of service.

2. Admitted position between the parties is that
the applicant joined service as postal Assistant on

14-7-1976. though in the original Application, the date mentioned is 17-7-1975, it is submitted by the learned counsel for the applicant that 14-7-1976 is the correct date of his joining as Postal Assistant and accordingly he is due to get the promotion under OTBP scheme after completion of 16 years of satisfactory service i.e. w.e.f. 14-7-1992 but as this has been denied to him, applicant has come up in this Original application with the prayer referred to earlier.

3. For the purpose of deciding this Original Application, it is not necessary to go into too many facts of this case. It is only necessary to note that according to Respondents themselves, the applicant is due to get promotion under OTBP scheme w.e.f. 14.7.92. This has been mentioned in para -3(b), at page-2 of the counter. Respondents' case is that applicant was placed under suspension w.e.f. 25-2-1992 in the order at Annexure-R/3 and was reinstated w.e.f. 27-8-1992 by order which is at Annexure-R/4. Thereafter, the CBI took up a fraud case and submitted chargesheet on 30.11.1992 which was received by the Senior Superintendent of Post Offices on 12.9.1993. Ultimately, charge-sheet was issued on 31.5.1994 vide Annexure-R/V. In the context of the above facts, Respondents have submitted that as the service of applicant was not satisfactory, he was not considered for such promotion, under the scheme.

8

4. We have heard Mr. D. P. Dhalsamant, learned counsel for the applicant and Mr. A. K. Bose, learned Senior St. Counsel appearing for the Departmental Respondents and have also perused the records.

5. It is submitted by learned counsel for the petitioner that law is well settled that proceedings against a Govt. servant must be deemed to have been initiated w.e.f. the date of issue of the chargesheet and in this case, chargesheet was admittedly issued on 31.5.1994 and therefore, there was no reason why his case for promotion under the OBP scheme was not considered prior to this date. It is submitted by learned Sr. Standing Counsel that chargesheet which is at Annexure-R/v, shows that the conduct of applicant while working as Ledger Assistant in Sambalpur Head office during the period from 7.10.1991 to 31.1.1992 was called in question, in these proceedings and because of his service are not having been found satisfactory he was not promoted. We note from the enclosures to the counter filed by Respondents that applicant was placed under suspension w.e.f. 25.2.1992 that was prior to the date on which he ^{became} ~~came~~ entitled to be consideration for promotion under the OBP w.e.f. 14.7.1992. It is also admitted between the parties that mere completion of the required number of years, could not entitle a person to get promoted under the scheme. For this, one must have the satisfactory service of 16 years. But in this case in order dated 27.8.1992, applicant was reinstated and in the

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order which is at Annexure-R/IV, there is no mention that the proceedings are under contemplation against the applicant or with any CBI enquiry is underway. Ultimately, chargesheet was issued against the applicant only on 31.5.1994. There is, therefore, no reason to our mind as to why during the period from 27.8.1992 till 31.5.1994, the case of the applicant was not considered for promotion under OTBP scheme. In this case neither the applicant nor the Respondents in their plea have indicated how the period of suspension has been treated whether it has been treated as duty or the period still remains undecided. In consideration of the fact that the applicant was under suspension from February, 1992 to August, 1992 and there is nothing in the pleadings as to how this period of suspension has been treated and also in view of the fact that the proceedings against the applicant were initiated only in May, 1993, we hold that the applicant is entitled to be considered for promotion under OTBP scheme w.e.f. his re-instatement i.e. on 27.8.1992. In view of this, the Original Application is disposed of with a direction to the Respondents that the suitability of applicant for promotion under OTBP should be considered as on 27.8.1992 within a period of 90 days from the date of receipt of a copy of this order.

6. In this case charge-sheet was issued against the applicant in May, 1994. Learned counsel for both sides are unable to indicate what was the present position of the proceedings and whether in the proceedings applicant has been found guilty or the applicant has been exonerated and whether if the proceedings have already been completed, after the completion of the proceedings, applicant have in the meantime been promoted under the OTBP scheme. In consideration of the above, we further clarify that our direction for considering the applicant for promotion under OTBP scheme as on 25.8.1992 should be implemented by the Respondents irrespective of the fact whether later on he has been given promotion under the scheme from a later date.

7. With the above directions, the Original application is disposed of but in the circumstances, without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.