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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 348 OF 1994

Cuttack, this the 24th day of July, 2000

Shri Purna Chandra Mishra, Inspector Income-tax, Office
of the Deputy Commissioner of Income-tax, Bhubaneswar
Range, Rajaswa Vihar, Bhubaneswar

...Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

*. 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

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
24/7.2000

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CORAM:

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

.....
Shri Purna Chandra Mishra, Inspector of Income Tax,
Office of the Deputy Commissioner of
Income-tax, Bhubaneswar Range, Rajaswa Vihar,
Bhubaneswar

.....
Applicant

Advocate for applicant -Mr.Antaryami
Rath

Vrs.

1. Union of India, represented by the Secretary to Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi.
2. Commissioner of Income Tax, Orissa, Government of India, 15, Udayan Marg, Bhubaneswar.
3. Smt.M.Fernandez, Inspector of Income Tax
4. Shri A.Pani, Inspector of Income Tax
5. Shri S.C.Pattnaik, Inspector of Income Tax
6. Shri A.V.S.Murty, Inspector of Income Tax
7. Shri B.C.Senapati, Inspector of Income Tax
8. Md.Kamal, Inspector of Income Tax
9. Shri R.N.Bhanja, Inspector of Income Tax

C/o Commissioner of Income Tax, Government of India,
15, Udayan Marg, Bhubaneswar ... Respondents

Advocate for respondents - Mr.A.K.Bose
SR.CGSC

S. Som
O R D E R
SOMNATH SOM, VICE-CHAIRMAN

In this petition the applicant has
prayed for directing Commissioner of Income Tax,
Orissa, Bhubaneswar (respondent no.2) to fix the
position of the applicant above Smt.M.Fernandez

(respondent no.3) and private respondent nos. 4 to 9 in the seniority list of Inspectors of Income Tax and give him further consequential benefits.

2. The applicant's case is that he joined as Stenographer (Ordinary Grade) on 9.12.1970 and was promoted to Selection Grade Stenographer in 1988. He had passed Income Tax Inspector Examination held on 12.8.1977. In the order dated 19.9.1990 (Annexure-1) he was promoted as Inspector of Income Tax along with private respondent nos. 3 to 9. Respondent nos. 3 to 9 were in the grade of HeadClerk with pay scale of Rs.1400-2300/- prior to their promotion whereas the applicant was Selection Grade Stenographer in the pay scale of Rs.1400-2600/-. He has stated that according to the Ministry of Personnel's circular dated 12.12.1988 (annexure-2), amongst persons in the feeder grade those in the higher pay scale will rank to those in the lower pay scale. But the applicant's name has been shown against serial no.9 in the order of promotion at Annexure-1 instead of serial no.2. Apprehending that he might be shown junior to respondent nos.3 to 9 he submitted representation on 9.7.1993. His representation was rejected in order dated 16.2.1994 at Annexure-4. Against this background, the applicant has come up in this petition with the prayer referred to earlier.

3. The respondents in their counter have opposed the prayer of the applicant. They have pointed out that the circular dated 12.12.1988 relied on by the petitioner has no application to this case. The promotion to the rank of Inspector of Income Tax

from the feeder grades is done in accordance with the principles laid down in Central Board of Direct Taxes letter dated 26.8.1987 (Annexure-A). This circular provides for determination of relative seniority between ministerial group and Stenographer group for promotion to the rank of Inspector of Income Tax. According to this, where promotion to a grade is made from more than one feeder grade, the eligible persons shall be arranged in separate lists in the order of their seniority in the respective grade. It has been clarified that with recent introduction of quota system for ministerial staff vis-a-vis Stenographers for promotion to the grade of Inspector of Income Tax, it is necessary to prepare four lists of candidates in the following manner:

- (1) List on the basis of seniority for ministerial staff;
- (2) List on the basis of date of passing of the Inspector of Income Tax Examination for the ministerial staff;
- (3) List on the basis of seniority for Stenographers; and
- (4) List on the basis of date of passing of IIT Examination for Stenographers.

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Besides the above, separate list for each channel shall be drawn up in respect of SC and ST candidates. The DPC will select required number of candidates in each of the lists depending upon the number of vacancies in accordance with the prescribed quota and arrange all

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the candidates selected from different lists in a consolidated order of merit which will determine the seniority of the persons on promotion to the grade of Inspector of Income Tax. The respondents have further stated that the Department of Personnel & Training in their circular dated 7.2.1990 (Annexure-B) have clarified the general principles further. It isstated that DPC has considered the candidates taking into account the guidelines laid down by the Board and accordingly the seniority list has been rightly prepared.

4. We have heard Shri Antaryami Rath, the learned counsel for the petitioner and Shri A.K.bose, the learned Senior Standing Counsel for the departmental respondents and have also perused the records.

5. The circular dated 12.12.1988 relied upon by the applicant lays down a general principle of seniority for the preparation of combined select list where quotas have been laid down for various posts in the feeder grade. This merely provides that within the quota system in the feeder grade those enjoying higher scale of pay will rank senior to those inthe lower scale of pay. But that will not mean that where promotion is being made from two different groups like ministerial group and Stenographers, inter se seniority between them on promotion to the rank of Inspector of Income Tax would be guided bythe above principle. For determination of seniority in the rank of Inspector of Income Tax between the two groups,separate and detailed

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instructions have been given and these are to be followed. According to these instructions, amongst the eligible candidates, ministerial staff and Stenographers are to be promoted on the basis of quota system and according to the respondents, this has been correctly done. This assertion of the respondents has not been denied by the applicant by filing any rejoinder. In consideration of the above, we hold that on account of the applicant enjoying higher scale of pay as Selection Grade Stenographer in the feeder grade he cannot rank senior to the persons promoted from ministerial group ignoring his position according to the quota.

6. In the result, the Original Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
24.7.2000
VICE-CHAIRMAN

July 24, 2000/ANPS