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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 349 OF 1994
Cuttack this the 19th day of Oct. /2000

Akuli Charan Samal ... 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*

Somnath Som
SOMNATH SOM
VICE-CHAIRMAN
19.10.2000

19.10.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 349 OF 1994
Cuttack this the 19th day of October/2000

CORAM:

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

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Shri Akuli Charan Samal,
Superintendent, Central Excise and Customs,
M/s. Indian Charge Chrome Ltd., Chaudwar,
Dist - Cuttack

Applicant

By the Advocates

M/s. Antaryami Rath

-VERSUS-

1. Union of India represented by the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi
2. Chairman, Central Board of Excise and Customs, Ministry of Finance, Department of Revenue Government of India, North Block, New Delhi-110001
3. Principal Collector, Central Excise and Customs East Zone, 15/1, Strand Road, Customs House, Calcutta-700001
4. Collector, Central Excise & Customs, Rajaswa Vihar, Bhubaneswar-751004
5. Shri S.B.Samantray |
6. Shri K.V.R.Patnaik |
7. Shri M.V.R.Sastry |
8. Shri R.Surya Rao |
9. Shri Y.R.Sankar |
10. Shri K.P.Patra |
11. Shri B.C.Sahu |

Assistant Collectors,
Central Excise and Customs,
C/o. Collector, Central Excise
and Customs, Rajaswa Vihar,
Bhubaneswar-751004

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Respondents

By the Advocates

Mr. A.K.Bose,
Sr. Standing Counsel
(Central) (For Res.
Nos. 1 to 4)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL) : Applicant, Akuli Charan Samal, Superintendent of Central Excise and Customs is admittedly senior to Private Respondents 5 to 11. However, by order dated 3.2.1994, these private respondents have been promoted on adhoc basis to officiate in the Grade of Assistant Collector of

Customs and Central Excise. Since the applicant was not promoted, he filed this Application praying for his promotion to the cadre of Assistant Collector from the date his immediate junior Shri S.B.Samantray (Respondent No.5) and other were promoted with consequential service and financial benefits.

2. The case of the applicant is that he is on the verge of retirement and unless he is promoted he would suffer irreparable loss and mental agony.

3. The Private Respondents 5 to 11 have neither entered appearance nor filed any counter.

The Departmental respondents in the counter take the stand that the inter se seniority dispute of Group B Officers is pending before the Apex Court. The Apex Court in its interim order dated 22.12.1989 permitted the Department to fill up 550 vacancies in the Grade of Assistant Collectors of Customs and Central Excise and promotion of Group B officers. The said order was implemented upto March, 1992. The Apex Court passed fresh interim order dated 13.3.1992 withdrawing allocation of Group A posts among the feeder cadre and permitted the Union of India to fill up the vacancies in Group A on adhoc basis in a just and equitable manner. Pursuant to this interim order a combined seniority list of Group B officers was prepared for considering their names for adhoc promotions to Group A cadre. The Departmental Screening Committee met in December/93 to consider a panel of Group B officers for their promotions to Group A on adhoc basis. This promotion was considered on the basis of seniority-cum-fitness. In the said meeting the name of the applicant was also considered. But on scrutiny of the service record, he was not found fit for promotion to Group A service. On these averments the departmental respondents pray for dismissal of this O. A.

4. No rejoinder has been filed by the applicant.

5. We have heard Shri Antaryami Rath, the learned counsel for the applicant and Shri A.K.Bose, the learned Senior Standing Counsel appearing for the departmental respondents. Also perused the records.

As stated by the Department the applicant was not promoted to Group A cadre because he was not found fit as per the service record. It is not the case of the applicant that as a Group B officer, his service record has been all through good. Law is well settled that promotion is not a matter of right. When as per the service record an employee is not found fit for promotion he should not have any grievance on this account.

We, therefore, do not see any infirmity or illegality in the decision of the Department in not promoting the applicant to Group A cadre even though Private Respondents 5 to 11 were promoted under Annexure-2.

6. In the result, we do not see any merit in this Application which is accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//

14-10-2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)