



CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 537 OF 1994  
Cuttack this the 28th day of September/2000

Dayakrushna Behera

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*28.9.2000*

*28.9.2000*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.537 OF 1994  
Cuttack this the 28th day of Sept./2000

CORAM:

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

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Jayakrushna Behera,  
Son of Late Raghab Behera,  
resident of and PO: Bhubaneswar  
District - Khurda, presently  
working as Accounts Officer,  
Office of the Director,  
Telecom, At/PO/Dist - Sambalpur

...

Applicant

M/s.P.V. Ramdas  
P.V. Balakrishna

By the Advocates

-VERSUS-

1. Union of India represented by the  
Secretary to Government of India,  
Ministry of Telecommunications,  
Sanchar Bhawan, New Delhi-1
2. Director (SEA)  
Department of Telecom  
Sanchar Bhawan, New Delhi-1
3. Director, Telecom  
At/PO/Dist - Sambalpur

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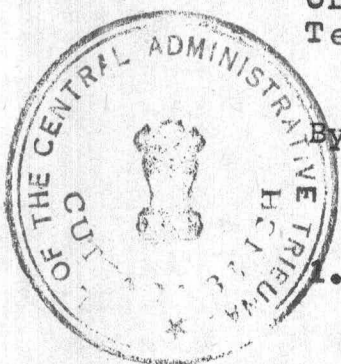
Respondents

Mr.S.B. Jena  
Addl.Standing Counsel  
(Central)

By the Advocates

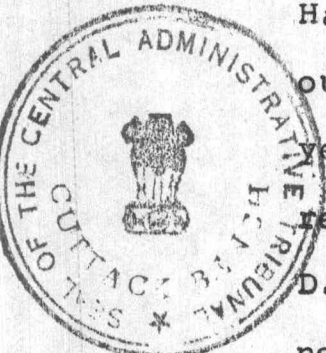
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O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, Jayakrushna Behera belonging to Scheduled Caste community is an Accounts Officer in Grade -B of Telecom and Postal Department and he has been in the Office of the Director, Telecom, Sambalpur Division since 12.6.1986. His grievance is that in the Departmental Promotion Committee (D.P.C.) meeting on 25.2.1995, for considering promotions to the Accounts Officer Grade A from amongst the Accounts Officers Grade B did not recommend his case for promotion though out of 92 officers of this Department recommended by the





D.P.C. 16 belonged to Scheduled Castes and some of them were juniors to the applicant. Moreover, as per rules, the D.P.C. must meet every year and no D.P.C. was held in the years 1990-91, and 1991-92, 1992-93 in respect of availability of vacancies in these years. In the D.P.C. held on 25.2.1994, all the vacancies from the last D.P.C. held in the year 1989 have been clubbed up and recommendations were made with reference to the total number of vacancies, which according to applicant, is against the rules. Had the D.P.C. been meeting every year to consider the promotions out of the Gradation List with reference to vacancies of each year, then the applicant would have had a fair scope to be recommended by this D.P.C. Hence, according to applicant, the D.P.C.'s recommendation under Annexure-1 dated 25.2.1994 being not according to law needs to be cancelled.



2. The three Respondents representing the Department take the stand that the D.P.C. held in February/94 to fill up the vacancies which became available during the year 1992-93. Prior to this there was no necessity to convene D.P.C. for selection of officers for promotion as there was no vacancy in that Grade. Panel for filling up the vacancies on regular basis is prepared against regular vacancies becoming available in that grade. In the past in making appointments to the Junior Time-scale, chain vacancies caused due to promotion in the higher grades used to be taken into account. But after 1989, U.P.S.C. insisted that in future only regular vacancies caused in the Junior Time Scale should be taken into account for preparing a panel. During the years 1989 - 1992, against the sanctioned strength in the Junior Time Scale, regular officers were available and as such no vacancy had taken place during

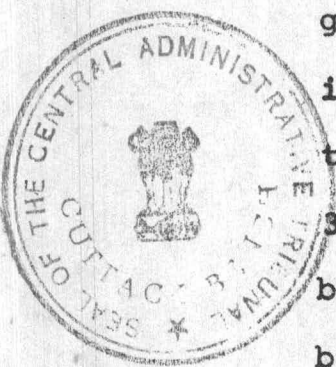
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these years. Vacancies became available during 1992-93 on account of down-gradation of 76 Senior Time Scale posts to Junior Time Scale and also due to promotion of 32 JTS officers to STS on regular basis. Accordingly a panel of 198 officers was drawn up as per guidelines issued by the Department of Personnel & Training. The case of the applicant along with some of his juniors, who came in the zone of consideration was considered for promotion by the D.P.C., but the applicant was not selected as the officers having better gradings were available. In short the case of the respondents is that no illegality or irregularity had been committed by the D.P.C. meeting in the year 1994.

3. In the rejoinder filed by the applicant it has been asserted as to the availability of vacancies year-wise by giving a chart.

4. We have heard Shri P.V.Ramdas, learned counsel for the applicant and Shri S.B.Jena, learned Addl. Standing Counsel appearing for the Respondents. During hearing learned Addl. Standing Counsel filed xerox copies of judgments in Original Application No.224/96 disposed of by a Division Bench of C.A.T., Ernakulam on 13.7.1998; O.A.441/95 disposed of by C.A.T., Madras Bench on 13.6.1998; and O.A.675/94 disposed of by C.A.T., Mumbai Bench on 16.3.2000 centring round the validity and legality of the recommendations made by this D.P.C. on 25.2.1994. We have perused these judgments, so also this Original Application.

5. Shri Ramdas, the learned counsel for the applicant while reiterating his grounds as mentioned in the Original Application also submitted that Grading relied on by the D.P.C.





in case of the applicant was defective, because it was given by an authority, who is not concerned with the Accounts Wing. Shri S.B.Jena, the learned Addl. Standing Counsel, while countering this submission had urged that the application is not maintainable since the juniors, who according to the applicant have been recommended by the D.P.C. have not been impleaded as Respondents.

6. The dispute giving rise to filing of this Application has already been settled vide judgments of three Benches of the C.A.T. mentioned above and relied on by the Department. These Benches after elaborate discussion, came to a finding that no vacancy occurred after the meeting of the D.P.C. in the year 1989 and the D.P.C. met in February/94 to consider the vacancies that were available during 1992-93 and no illegality or irregularity occurred in the recommendations of the names by the D.P.C. After going through those judgments we are also agree with the reasonings and findings.

7. The other contention raised by Shri Ramdas that the grading was defective has no force, because this Tribunal cannot act as an appellate authority or the superior authority over the officer who is concerned with such grading.

8. In the result Original Application fails and is dismissed accordingly, but without any order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

*28.9.2000*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//