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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 774 OF 1994

Cuttack, this the 4th day of January 1999

Sri Gadadhar Satpathy

....

Applicant

Vrs.

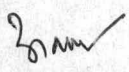
Union of India and others

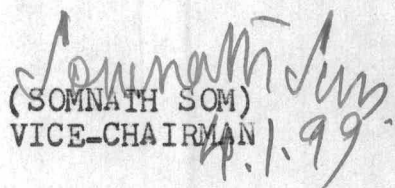
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Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(A.K. MISRA)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN
4.1.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.774 OF 1994

Cuttack, this the 4th day of January 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI A.K.MISRA, MEMBER(JUDICIAL)

....

Sri Gadedhar Satpathy,
son of late Narayan Satpathy,
village Urali, PS-Sadar, Dist.Cuttack..... Applicant

By the Advocates - M/s G.K.Misra, G.Misra, D.Das,
K.Swain, G.K.Agrawal & B.K.Raj.

Vrs.

1. Union of India, represented through Director General of Posts, Dak Bhawan, New Delhi.
 2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
 3. Director, Postal Services (Hqrs.), Office of C.P.M.G., Bhubaneswar, Dist.Khurda.
 4. Sr.Superintendent of Railway Mails, RMS "NDivision, Cuttack
- Respondents

By the Advocate - Shri Ashok Misra,
Senior Panel Counsel.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

J.M.

In this application under Section 19 of Administrative Tribunals Act, 1985 the petitioner has prayed for a direction to the respondents to allow him arrear dues upon his promotion to LSG cadre from the year 1974. There is also a prayer for quashing the order dated 3.3.1986 (Annexure-6), the order dated 17.1.1993 (Annexure-8) and the order dated 6.5.1994 (Annexure-9) in which the above prayer has been denied.

2. The applicant's case is that he joined as Time Scale Sorting Assistant in RMS "N" Division on 1.7.1959 and was due to be promoted to Lower Selection Grade with effect from 1.6.1974 under 20% quota. Originally the seniority list of Time Scale Sorting Assistants in the Division was drawn up mistakenly on the basis of date of confirmation in service and not on the basis of date of entry. On the basis of that erroneous gradation list, the respondents on 14.11.1974 brought out a list of persons who were entitled to be promoted to LSG cadre with effect from 1.6.1974. This list included the name of Krishna Chandra Bhoi who belongs to S.C. category. It is stated that eight Time Scale Sorting Assistants superseded the applicant and he filed OJC No. 1395 of 1976 before the Hon'ble High Court of Orissa who in their order dated 22.8.1979 (Annexure-2) quashed the gradation list and directed that a fresh gradation list be drawn up on the basis of principles indicated in two earlier decisions of the Hon'ble High Court mentioned in the said order and consequential benefits available to the petitioner, if any, upon such re-drawal of the gradation list be given to him immediately thereafter. The applicant further states that in case of another person Paramananda Sahoo who was similarly situated as the applicant, the departmental authorities directed conferment of full financial benefits with effect from the date of his promotion to LSG cadre in the year 1974 and payment of arrears of pay and allowances on par with official immediately junior to him. It was indicated in this order (Annexure-3) that Paramananda Sahoo and another person are entitled to the same in compliance of the order of the Hon'ble High Court in Original Criminal

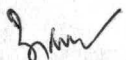
3. The respondents in their counter have opposed the prayers of the applicant. Their case is that the applicant was approved for promotion to LSG cadre under two-thirds quota of vacancies for the year 1979. He was posted to non-functional LSG post with effect from 13.3.1981 in order dated 7.3.1981 and his pay was accordingly fixed in the scale of Rs.425-640/- at the stage of Rs.470/-. Later on the basis of revised gradation list his pay was stepped up to be at par with the pay of Krishna Chandra Bhoi in order dated 9.10.1986. Thereafter his pay was fixed at Rs.515/- at par with the pay of Shri Krishna Chandra Bhoi. This stepping up of pay was objected to by the Audit on the ground that Krishna Chandra Bhoi belongs to reserved community and he got promotion from 1.6.1974 in the reserved quota and as the junior official got promotion earlier, stepping up of pay was not admissible. In view of the objection, the order dated 9.10.1986 was cancelled. The respondents have stated that the applicant's contention that he was due to be promoted to LSG cadre with effect from 1974 under 20% quota is not correct. As the applicant belongs to general category, his turn for promotion to LSG cadre under two-thirds quota for 1979 came up for consideration only in 1981 and he was promoted and joined with effect from 13.3.1981. It is further stated that promotion from Time Scale to LSG cadre under two-thirds quota is according to the seniority in the lower cadre and the applicant's turn came up for promotion according to the seniority against 1979 quota. The respondents have also stated that the case of Paramananda Sahoo is not similar to that of the applicant. Shri Sahoo was far senior to the applicant

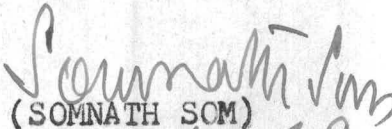
4. We have heard Shri G.K.Misra, the learned counsel for the petitioner and Shri Ashok Misra, the learned Senior Panel Counsel appearing on behalf of the respondents, and have also perused the records. The learned counsel for the petitioner had filed written note of submission on 15.2.1996 when the matter was heard by a previous Bench and this has also been taken note of.

5. The order dated 9.10.1986 has been cancelled by the departmental authorities in order dated 18.10.1996 and the arrear financial benefits given to the applicant and others had been ordered to be recovered. In case of the applicant, these arrear financial benefits have been allowed from 13.3.1981. In the present Application, the petitioner has prayed for arrear financial benefits from the date of his notional promotion till 13.3.1981. The applicant and fourteen others have filed OA No.844 of 1996 challenging the order of recovery. We have in a separate order delivered today disposed of OA No.844 of 1996 holding that in view of the reasons given in that order stepping up of the pay of the applicants in OA No.844 of 1996 was not in accordance with law. While so deciding, we have taken the view that in view of long passage of time of about ten years, the arrear financial benefits which have not yet been recovered from the applicants should not be recovered. In view

of our finding in OA No.844 of 1996 that stepping up of pay was not permissible in this case, the applicant in the present case cannot claim arrears on the basis of such stepping up from the date of his notional promotion till 13.3.1981. This prayer is, therefore, held to be without any merit and is rejected.

6. In the result, therefore, the Original Application is rejected, but, under the circumstances without any order as to costs.


(A.K.MISRA)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN - 99