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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 809 OF 1994
Cuttack this the 29th day of November /2000

Nrushingh Charan Mishra ...

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

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

29.11.2000

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(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.809 OF 1994
Cuttack this the 29th day of November / 2000

CORAM:

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

...

Sri Nrusingh Charan Mishra, S/o. Late Brundaban
Mishra, At: Bhubanpur, PO: Garhmadhupur, PS: Dharmasala
Dist - Jajpur

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Applicant

By the Advocates

M/s. G.K. Mishra
G. Misra
K. Swain
B.K. Mishra
P.K. Patnaik
B.K. Raj

-VERSUS-

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 the C.P.M.G., Bhubaneswar, District-Khurda
4. Sr. Superintendent of Railway Mails, R.M.S. 'N'
Division, Cuttack

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Respondents

By the Advocates

Mr. S. Behera
Addl. Standing Counsel
(Central)

ORDER

MR. G. NARASIMHAM, MEMBER (JUDICIAL): Applicant, Nrusingha
who
Charan Mishra/joined as Time-scale Sorting Assistant in R.M.S.
'N' Division in the year 1959, was promoted to the Grade of L.S.G.
in October/1982 in the pay scale of Rs.425-640/-. At the time of
his promotion he was in the pay scale of Rs.26-480/- and was
drawing basic pay Rs.468/-. On his promotion his pay was fixed
at Rs.485/-. Subsequently his pay was stepped up to Rs.550/- at
par with Shri R.C. Sethi vide order dated 13.10.1986. After an
internal check, it could be discovered that his Junior Shri R.C.

Sethi

Sethi was promoted to the Grade of L.S.G. with effect from 17.7.1978 and accordingly the matter was reexamined in detail. It was found that stepping up pay of the applicant was irregular and on the basis of such audit report, this stepping up of pay vide order dated 13.10.1986 was cancelled in Memo dated 17.11.1993.

2. In this Application filed on 10.11.1994, the grievance of the applicant is that he was due to be promoted to L.S.G. with effect from 1.6.1974 and the authorities under a misconception of the statutory provision reckoned his seniority among the Time-scale Sorting Assistants on the basis of date of confirmation of their service irrespective of their date of entry and brought out an erroneous list of officials deemed and entitled to L.S.G. Grade with effect from 1.6.1974 by order dated 14.11.1974 vide Annexure-1. In that Gradation List his junior Shri Hrudananda Kumar was made to supersede the applicant. Some of the aggrieved Assistants filed cases in the High Court of Orissa and obtained favourable orders. Similarly in the case of Paramanda Sahoo, who had appeared with the applicant, the High Court directed conferment of full financial benefits upon approval of L.S.G. Cadre in the year 1974. Thereafter a revised seniority list under Annexure-2 was drawn up on 15.12.1981 placing the applicant at Sl. 102 and Shri R.C.Sethi at Sl. 105 and Shri Hrudananda Kumar at Sl. 61. Applicant's representation for conferment of financial benefits at par with Shri Hrudananda Kumar went unheeded. Challenging the cancellation of stepping up of pay order, he filed another Original Application. In this Application he prays for issue of direction to the Respondents to pay the

arrear dues of the applicant consequent upon his promotion to the L.S.G. Cadre from the year 1974 in view of the direction of the High Court of Orissa in the case of Sri Hrudananda Kumar.

3. The Department in their counter take the stand that while the applicant belongs to unreserved community, Sri Hrudananda Kumar belongs to reserved community. As belonging to S.T. community Shri Kumar got promotion to L.S.G cadre earlier than the applicant in the year 1974, whereas the applicant belonging to unreserved community was promoted to L.S.G. cadre in the year 1982 against the available vacancy. Similarly Shri R.C.Sethi, belonging to reserved community secured earlier promotion to the cadre of L.S.G. on 17.7.1978. Paramananda Sahoo, according to the Department is far senior to the applicant, his date of entry being 30.10.1958. He belongs to regular L.S.G. supervisory post, i.e., prior to introduction of 20% L.S.G. quota. But the case of the applicant is different as he was appointed on 21.10.1959, for which he was promoted to L.S.G. cadre under 2/3rd quota during the year 1982.

4. No rejoinder filed.

5. We have heard Shri G.K.Mishra, the learned counsel for the applicant and Shri S.Behera, the learned Addl. Standing Counsel appearing for the Department. Also perused the records.

6. In substance in this Application filed in the year 10.11.1994, the applicant prays to be declared to have been promoted to the L.S.G. cadre in the year 1974 and consequently direction to the Department to pay the arrear financial benefits. Prima facie, this Application is barred by limitation under the

provisions of A.T.Act, 1985, should the provisions of A.T. Act apply. Since the cause of action arose in the year 1974, i.e., for not having been promoted to L.S.G. cadre in that year, this Tribunal lacks jurisdiction to entertain and hear this Application under Section 21(2) of the A.T.Act, which ^{where} lays down that/grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates.

Central Administrative Tribunal began functioning from 1.11.1985 onwards. This being the position, this Tribunal even has no jurisdiction to entertain this Application.

7. This apart even on merits, as per the stand taken by the Department in the counter and not refuted by any rejoinder the applicant's prayer cannot be acceded to.

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

G. Narasimham
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//