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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 820 OF 1994.
Cuttack, this the 21st day of November, 2000.

Purna Chandra Sahoo. ... Applicant.
Vrs.
Union of India & Ors. ... Respondents.

FOR INSTRUCTIONS

1. 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.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

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SOMNATH SOM
VICE-CHAIRMAN
21.11.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 820 OF 1994.
Cuttack, this the 21st day of November, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G.NARASIMHAM, MEMBER(JUDICIAL).

Purna Chandra Sahoo, Aged about 42 years,
Son of Achutananda Sahoo, At present working
as Stenographer Gr.III, Office of the Chief
General Manager, Telecommunications, Orissa
Circle, Bhubaneswar, Dist: Khurda.

... APPLICANT.

By the legal practitioner: M/s.R.N.Naik, A.Deo, B.S.Tripathy,
P.K.Mishra, Advocates.

-Versus-

1. Union of India represented by its
Secretary, Ministry of Communication,
Department of Telecommunication,
New Delhi.
2. Chief General Manager, Telecommunications,
Orissa Circle, Bhubaneswar, Dist: Khurda.
3. Assistant General Manager(Staff and
Administration, Office of the Chief General
Manager, Telecommunications, Orissa Circle,
Bhubaneswar, Dist. Khurda.

... RESPONDENTS.

By legal practitioner : Mr. A.K.Bose, Senior Standing Counsel.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to fix his seniority taking into account the service rendered by him from the date of his initial appointment in the organisation where he was initially appointed. He has also prayed for quashing the order dated 29.11.1994 in Annexure-8 in which his prayer for counting his past service for the purpose of seniority has been rejected.

2. Respondents have filed counter opposing the prayers of the applicant.

3. For the purpose of considering this Petition, it is not necessary to refer to all the averments made by the parties in their pleadings. The admitted position is that the applicant was initially appointed as Gr.III Stenographer in the Office of the Welfare Commissioner under the Ministry of Labour which post he joined on 9-6-1975. He continued as such till 1.6.1992 when he was declared surplus. Accordingly, through the surplus Cell he was given a posting under the Chief General Manager, Telecommunications, Orissa Circle as Stenographer. This order is at Annexure-3. Applicant was accordingly relieved from the *JJm* Surplus Cell on 22-7-1992 and joined the office of the Res. No. 2 on 23.7.1992. Applicant has stated that since July, 1992 his seniority in the Telecommunications Department has not been fixed. He had prayed for fixing his seniority taking into account his 17 years of service in the Ministry of Labour but this has been rejected in order at Annexure-8. Applicant has further stated

that in a similar case in O.A. No. 160/93, Cuttack Bench of the Tribunal in their order dated 27-5-1994 have allowed similar benefits to a similarly situated employee.

4. Respondents have opposed the prayers of the applicant on the ground that circulars and instructions dealing with redeployment of surplus staff enclosed by them alongwith the counter, specifically provide that surplus staff on redeployment are not entitled to the benefits of past service rendered by them in the previous organisation for the purpose of seniority in the new organisation. It is also provided that they are to be treated as fresh entrant in the matter of seniority and promotion. Respondents have also stated that the decision of the Tribunal in OA No. 160/93 is distinguishable and is not applicable to the case of the applicant.

5. We have heard Shri B.S.Tripathy, learned counsel for the applicant and Mr.A.K.Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records. The circular relied upon by the Respondents specifically provides that the services rendered in the previous organisation by a surplus employee can not be counted for the purpose of seniority and promotion in the new organisation where he is appointed on deployment and in that organisation he will be treated as fresh entrant. It is also provided in the circular that only for the purpose of counting pensionable service his previous service can be taken into consideration. It is only for this limited purpose, his past service can be taken into consideration and not for the purpose of seniority. This rule and instructions are of long standing and have not been struck down so far. In the present case also there is no prayer for striking down this instruction. Secondly the decision of the Tribunal

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in O.A. No.160/93 has been set aside by the Hon'ble Supreme Court in the case of UNION OF INDIA VRS.K.SAVITRI reported in 1998 SCC(L&S) 1134 . Moreover in O.A. No.160/93 the point for determination was the quantum of service rendered which would make a person eligible to take the Departmental examination for the next promotion. In facts also that case is quite distinguishable.

6. In view of this, we hold that this Original Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
01.11.2000

KNM/CM.