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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 85 OF 1994.

Cuttack, this the 6th day of March, 2000.

DILLIP KISHORE MOHANTY.

....

APPLICANT.

-Vrs.-

UNION OF INDIA & OTHERS.

....

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*

l/m
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *3.2.2000*

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 85 OF 1994.
Cuttack, this the 6th day of March, 2000.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN,
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.).

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Dillip Kishore Mohanty, Aged about 32 years,
S/o Braja Kishore Mohanty, At-Keonjhar Colony,
Kanika Chhak, Cuttack-8, at present working as
Scientific Assistant-A, National Informatic
Centre, Unit-IV, Sachivalaya, Marg, Bhubaneswar. ... Applicant.

By legal practitioner : Mr. B. Das Mohapatra, Advocate.

- Versus -

1. Union of India represented by the Director General,
National Informatic Centre, Block-A, CGO Complex,
Lodhi Road, New Delhi.
2. Deputy Director, National Informatic Centre, Block-A,
National Informatic Centre, CGO Complex, Lodhi Road,
New Delhi.
3. Director, National Informatic Centre, Unit-IV,
Sachivalaya Marg, Bhubaneswar, Dist. Khurda.
4. Deputy Director, National Informatic Centre, Unit-IV,
Sachivalaya Marg, Bhubaneswar, Dist. Khurda.

By legal practitioner : Mr. S. B. Jena, Addl. SC.

5. Bijaya Kumar Samal, Employees Code No. 2499
6. Miss. Sujata Das, - do - No. 2711
7. Lalatendu Das, - do - No. 2596
8. Md. Mujibulla Khan - do - No. 2560
9. Jagannath Kar - do - No. 2603
10. Ms. M. Mishra, - do - No. 2614
11. Ms. M. Khamari - do - No. 2621
12. B. B. Bal, - do - No. 2700

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All are working as Scientific/Technical Assts-B,
Officiating in the Office of Director, National
Informatic Centre, Unit-IV, Sachivalaya Marg,
Bhubaneswar, Dist. Khurda.

By legal practitioner: M/s. Dr. M. Panda, D. K. Pani, S. K. Sahoo,
for Res. No. 6. M. K. Dash, M. K. Nayak, Advocates.

By legal practitioner: M/s. D. N. Mohanty, D. N. Lenka, K. N. Samal,
for Res. Nos. 5 to 8. B. K. Biswal, K. Lenka, B. K. Mallik,
Advocates.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this application under section 19 of the A.T. Act, 1985, applicant has prayed for a direction to the Respondents to give promotion to the applicant to the post of Scientific/ Technical Assistant, Gr.B w.e.f. 1.10.1991 the date when his co-appointees have been given such promotion.

2. Applicant's case is that on being selected through a competitive examination, he was appointed to the post of Scientific Technical Assistant Gr.A and joined the post on 11-10-1983. He successfully completed his probation on 10-10-1989. Res. No. 2 issued a circular on 24-10-1991 (Annex. 5) in which it was indicated that Scientific/Tech. Asst. Gr.A would be considered by the Review Committee for promotion to the post of Scientific/Tech. Asst. B. In this circular it was mentioned that those eligible employees who have completed three years of regular service in the present grade as on 1.10.1991 should be available in the station during meeting of the Review Committee. Applicant has stated that as he had joined on 11.10.1983, he could not complete three years of regular service by 1.10.1991. Accordingly, he represented ~~even~~ for relaxation of ten days for consideration of his case by the Review Committee but as this was not done he has come up in this petition with the prayer referred to earlier.

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3. Respondents, in their counter have opposed the prayer of applicant. They have stated that promotion from Scientific/Tech. Asst. Gr.A to Scientific/Tech. Asst. Gr.B is being done

on flexible Complementary Scheme and for this three years of residency in the lower scale has been kept as criteria in the Department for a long time. As the applicant had not completed the period of three years as on 1.10.91, which is the reference date, his case could not be considered by the Review Committee Meeting which was held on 27th to 29th of November, 1991. It is also stated that on the basis of the recommendation of the Review Committee held on the above dates, promotion order at Annexure-7 was issued on 31.12.1993. Respondents have further stated that after completion of three years of residency, by the applicant in the lower post, his case was considered for promotion as on 1.10.1992 and again as on 1.10.93 by the subsequent meeting of the Review Committee but he was found unsuitable and therefore, he was not allowed such promotion. Respondents have stated that if any relaxation is given to the requirement of three years of residency in the lower post, a large number of similar cases will come and therefore, they have opposed the prayer of applicant.

4. In this case copy of counter had been served on the learned counsel for the petitioner on 6.5.1994 but no rejoinder has been filed. Learned counsel for the petitioner was also absent on 7.1.2000 when the matter was posted to 3.2.2000 on which day this being a Division Bench matter, the matter was posted to today. Today learned counsel for the petitioner and his associates are also absent. No request has been made on their behalf seeking adjournment. As pleadings in this case have been completed long ago, it is not possible to drag on the matter indefinitely. We have, therefore, heard Mr. S.B. Jena, learned Additional Standing Counsel appearing for

Departmental Respondents and have also perused the records.

5. Prayer of the applicant in this case is to relax the requirement of three years of residency in the lower post for promotion to the post of Scientific/Tech. Asst. Gr.B. Admittedly, the reference date for the purpose of consideration for promotion was 1.10.1991 and the candidates were required to have completed three years of regular service by that date. It is admitted position that by 1.10.1991, applicant had not completed three years of service in the lower grade, he having joined the lower post on 11.10.1988. Applicant has not indicated on what ground a ~~relaxation~~ should be given and that too for one single individual. Respondents have on the other hand stated that the requirement of three years of residency in the lower post has been a requirement for the Department for a long time and any departure from this similar amount bring ~~some~~ demands from various persons at different levels. We find this argument is quite acceptable. Once for promotion to higher post a certain criteria has been fixed in a Department, then the person who has not completed the minimum service period can not claim that such requirement should be relaxed in his favour. Moreover, on completion of three years of service in the lower post his case has been considered twice by the Review Committee for promotion as on 1.10.1992 and 1.10.1993 and he has been found unsuitable. In view of this, we hold that the applicant has not been able to make out a case for the reliefs claimed by him in this Original Application which is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.