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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 15 OF 1995
Cuttack, this the 25th day of June, 2001

Shri Prakash Chandra Chakravarty & others...Applicants

Vrs.

Union of India and 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.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
25.6.2001

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CORAM:

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

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1. Shri Brakash Chandra Chakravarty, aged 55 years, son of late Gopal Chakravarty, At-Bamphi Sahi, Tala-telenga Bazar, Cuttack-9, at present working as Senior Technical Supervisor, X-Bar Exchange, Cuttack-1, Telephone Bhawan, Bajrakabati Road, Cuttack-1.
 2. Shri Netrananda Hati, aged 57 years, son of late Nityananda Hati, Kazi Bazar, Cuttack-2, now Senior Technical Supervisor, ARC Charbatia, Telephone Exchange, Charbatia, District-Cuttack.
 3. Shri Umesh Chandra Kar, aged 55 years, son of late Upendra Kar, At-Nanpur, P.O.-Taruah, Via-Haridaspur, Dist.Jajpur, at present working as Senior Technical Supervisor, Trunk Exchange, Telephone Bhawan, Bajrakabati Road, Cuttack-1.
 4. Shri Bhabagrahi Mohanty, aged 55 years, son of late Achutananda Mohanty, at Routra, P.O-Binjharpur, Dist.Jajpur, now working as Senior Technical Supervisor, Office of S.D.O.II, Carrier Compound, Cuttack-3.
 5. Shri Achutananda Gouda, aged 55 years, son of late Bahadur Gouda, At-Bhogada, P.O-Manitara, Via-Buguda, Dist.Ganjam, now working as Senior Technical Supervisor (PBX), Office of Sub-divisional Officer, Phones, Bhubaneswar

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Applicants
Advocate for applicants - Mr.B.R.Sarangi

Vrs.

1. Union of India, represented through Secretary, Ministry of Telecommunications, New Delhi.
2. Chief General Manager, Telecommunications, Orissa Circle, Bhubaneswar.
3. Director, Telecommunication Headquarters, Bhubaneswar.
4. Telecom District Manager, Cantonment Road, Cuttack.

..... Respondents

Advocate for respondents - Mr.U.B.Mohapatra
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this O.A., the five petitioners have prayed for a

direction to the respondents to give them promotion from Technician Grade-III to Grade-IV category on the basis of seniority in the basic grade of Technician Grade-I with consequential benefits on the grounds urged in the O.A. The respondents have filed counter opposing the prayer of the of the applicants, and the applicants have filed rejoinder. For the purpose of considering this petition, it is not necessary to record all the averments made by the parties in their pleadings. Only the admitted facts can be noted. We have heard Shri B.R.Saranghi, the learned counsel for the petitioners and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents. At the time of preparation of the order it came to our notice that the departmental authorities have issued a circular dated 13.12.1995 which has been printed in Swamysnews March 1996 and we had directed the learned Additional Standing Counsel to file a copy of the said circular. Accordingly, this circular has been filed and we have perused the same.

2. The applicant's case is that they joined as Technician in the grade of Rs.260-480/- in 1962 and was later on promoted to the grade of Technical Supervisor and thereafter to Senior Technical Supervisor. Technicians admittedly are in four grades; Grade-I with the scale of Rs.975-1660/-, Grade-II with the scale of Rs.1400-2300/- and Grade-III with the scale of Rs.1600-2660/-. It is also provided that from amongst Grade-III Technicians, i.e., Senior Technical Supervisors, 10% would be in Grade-IV with the scale of Rs.2000-3200/-. It is also the admitted position that under OTBP Scheme, on completion of sixteen years of service in the basic grade persons are to be promoted to the Grade of Technical Supervisor in Grade-II with the pay scale of Rs.1400-2300/- and on completion of 26 years of service they are considered for promotion to the level of Senior Technical Supervisor in Grade-III with the pay scale of Rs.1600-2660/-. The

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sole point for dispute and for consideration in this OA is that for further promotion to the level of Grade-IV in the scale of Rs.2000-3200/-, whether seniority in the grade of Senior Technical Supervisor, i.e., Grade-III will be taken into account or seniority in the basic grade will be taken into account. It is the admitted position that promotion will be on the basis of evaluation of CR and on the recommendation of DPC. This point came up before the Principal Bench of the Tribunal in OA No. 1455 of 1991, decided on 7.7.1992 (Annexure-5) and the Tribunal held that promotion to Grade-IV category in the scale of Rs.2000-3200/- will be on the basis of seniority in the basic grade, i.e., Grade-I. It is also the admitted position that SLP filed by the Department against this decision was dismissed by the Hon'ble Supreme Court. Extract of the order of the Hon'ble Supreme Court is at paragraph 4.10 of the O.A. After this in order dated 7.1.1994(Annexure-7) it was clarified that promotion to Grade-IV will be made from amongst officials in Grade-III on the basis of their interse seniority in the basic grade. Later on in order dated 18.2.1994, which has been referred to in order dated 19.5.1994 (Annexure-8) it was clarified that promotion to Grade-IV posts will be on the basis of interse seniority in Grade-III. It is this order which has been challenged by the applicants. Learned counsel for the petitioners has stated that the order of the Tribunal in OA No.1455 of 1991 has been implemented by the departmental authorities in their letter dated 7.7.1992(Annexure-6). Clarification had also been issued from time to time stating that promotion to Grade-IV will be on the basis of seniority in the basic grade and not on the basis of seniority in Grade-III. They have stated that since the point has already been decided and that too at the level of the Hon'ble Supreme Court, the departmental authorities could not have legally issued the circular providing that promotion to Grade-IV

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will be on the basis of interse seniority in Grade-III.

3. Respondents in their counter have stated that the judgment of the Tribunal confirmed by the Hon'ble Supreme Court has been implemented. But it was subsequently decided that this judgment will be applicable only to the applicants therein and not to others and accordingly the revised circular was issued. As earlier noted, the revised circular providing for promotion to Grade-IV on the basis of interse seniority in Grade-III was issued on 19.5.1994 (Annexure-8). But subsequent thereto order dated 13.12.1995 has been issued, which is at Annexure-R/1 to the memo filed by the learned Additional Standing Counsel. In this circular it has been mentioned that in the earlier order dated 30.8.1994 it was provided that promotion to Grade-IV category would be on the basis of seniority position in Grade-III. This having been challenged before the Principal Bench of the Tribunal in OA No.1455 of 1991, the Tribunal decided that promotion to Grade-IV category would be on the basis of seniority in the basic grade subject to fulfilment of other conditions of promotion under BCR Scheme. The SLP filed against the order of the Tribunal has been dismissed by the Hon'ble Supreme Court in their order dated 9.9.1993. Similar applications have been filed before other Benches of the Tribunal and the judgments in those OAs are in line with the judgment of the Principal Bench. After reviewing the existing procedure for promotion to Grade-IV, designated as Chief Section Supervisor, this revised circular dated 13.12.1995 has been issued. The operative portion of the circular dated 13.12.1995 is quoted below:

.....It has now been decided in supersession of earlier instructions that promotion to the said Grade-IV may be given from amongst officials in Grade-III on the basis of their seniority in the basic grade. The promotion would be subject to fitness determined by the DPC as usual.

The cases of promotion to the said Grade-IV in the scale of Rs.2000-3200/- against 10% posts under

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the BCR Scheme may be reviewed and the same may be regulated accordingly restricting the number of officials thus promoted strictly to 10% of the posts placed in Grade-III (scale of Rs.1600-2660) as provided in the BCR Scheme."

From the above it is clear that subsequent to filing of the counter in this case on 10.5.1995, the departmental authorities have reviewed the matter and allowed the prayer of the applicants. In view of this, we dispose of this O.A. with a direction to the respondents that the five applicants and other similarly situated should be given promotion to Grade-IV in accordance with rules of promotion under BCR Scheme on the basis of their seniority in the basic grade and not on the basis of their interse seniority in Grade-III. In case any of the applicants has been promoted in the meantime on the basis of interse seniority in Grade-III, the promotion will have to be worked out afresh on the basis of the seniority in the basic grade. This work should be completed within a period of 90 (ninety) days. The applicants are also entitled to financial benefits, if any, arising out of such promotion on the basis of seniority in the basic grade of Technician.

4. With the above observation and direction the Original Application is disposed of. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
25.6.2001.

CAT/CB/25-6-2001/AN/PS