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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 21 OF 1995
Cuttack, this the 17th day of August, 2000

Sri Janardan Sathua ... Applicant

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)
VICE-CHAIRMAN

17.8.2000

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CORAM:

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

.....

Sri Janardan Sathua,
son of late Shyam Sundar Sathua, Gr.II Stenographer,
office of the Deputy Commissioner of Income Tax,
Cuttack Range, Cuttack, At-Arunodaya Market
Building, Link Road, Cuttack-9.... Applicant

Advocates for applicant - M/s S.P.Das
S.Dey

Vrs.

1. Union of India, represented through Chief Commissioner of Income Tax, Bihar, Patna.
 2. Commissioner of Income Tax, Orissa, 15 Udyan Marg, Bhubaneswar.
 3. Deputy Commissioner of Income Tax, Cuttack Range, Cuttack.
 4. Sri K.S.N.Murty, Inspector of Income Tax, Office of the Assistant Director of Income Tax (Investigation), Berhampur, Dist.Ganjam
 5. Sri Sarat Chandra Panda, Inspector of Income Tax, Office of the Deputy Commissioner of Income Tax, Berhampur Range, Berhampur, Dist.Ganjam...
- Respondents

Advocates for respondents - Mr. A.K.Bose,
Sr.C.G.S.C.

ORDER
SOMNATH SOM, VICE-CHAIRMAN

S. Som

In this Application the petitioner has prayed that he should be promoted to the post of Inspector of Income Tax immediately giving retrospective effect and seniority. Before proceeding further it has to be pointed out that in the prayer portion he has not mentioned as to from which date he wants promotion with retrospective effect. But this appears from the averments made by him in the OA.

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2. The applicant's case is that he joined as Stenographer Ordinary Grade on 7.7.1970 and respondent nos. 4 and 5 joined as Stenographers (Ordinary Grade) on 16.7.1970 and 23.8.1971. In the seniority list of Stenographers (OG) at Annexure-1 the applicant is shown as senior to respondent nos. 4 and 5. The applicant has cleared the examination for promotion to the post of Inspector of Income Tax in 1980. He has stated that the order declaring him successful in the said examination is at Annexure-2, but actually Annexure-2 has not been enclosed. The applicant has stated that in 1986 disciplinary proceedings were initiated against him and major punishment was imposed. He had gone on appeal and got some relief. Thereafter he approached the Tribunal earlier in OA No.299 of 1988 which was disposed of in order dated 31.1.1991 remitting the matter back to the disciplinary authority who imposed the penalty of censure. The applicant went on a further appeal against the order and the penalty of censure was also deleted in the order dated 17.11.1994 at Annexure-4. The applicant has stated that he should have been promoted to the post of Inspector of Income Tax. But the DPC did not consider his case and thereby committed gross irregularity. In the context of the above he has come up in this petition with the prayer referred to earlier.

V. J. S.

3. The respondents have filed counter opposing the prayer of the applicant. It is not necessary to refer to the averments made in the counter of the respondents as these will be referred to at the time of considering the submissions of the learned counsel for the respondents.

4. We have heard Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records.

5. The admitted position is that in the rank of Stenographer (Ordinary Grade) the applicant was senior to respondent nos. 4 and 5. But on that basis alone he cannot claim promotion to the rank of Inspector of Income Tax because above the rank of Stenographer (OG) there is another rank of Stenographer Grade-II or Stenographer Senior Grade. The respondents have pointed out that DPC held on 23.8.1991 and 19.7.1993 considered the case of the applicant along with others for promotion to Stenographer Grade-II. In view of the proceedings which were then pending against him, his case was kept in a sealed cover and others were promoted. After the disciplinary proceedings finally ended in the order at Annexure-4 the sealed cover was opened and it was found that the DPC in their meeting held on 23.8.1991 had not recommended him for promotion. In view of this, the claim of the applicant that the DPC did not consider his case is without any merit and is rejected. His case was again considered in the DPC meeting held on 19.7.1993 and he was found suitable and was promoted to Stenographer Grade II on 30.7.1993. Respondent no.4 was promoted as Stenographer Grade-II on 26.8.1991 on the recommendation of the DPC which met on 23.8.1991. The same DPC which considered the case of the petitioner and kept their recommendation with regard to the petitioner in sealed cover. In view of this, respondent no.4 became senior to the applicant in the rank of Stenographer Grade-II. Therefore the applicant cannot

claim that from the date of promotion of respondent no.4 to the rank of Inspector of Income Tax, he should be promoted to the rank of Inspector. This contention is therefore held to be without any merit and is rejected.

6. As regards respondent no.5, the departmental respondents have pointed out that respondent no.5 had cleared the examination for promotion to the rank of Inspector of Income Tax in the year 1977 much before the petitioner who cleared the examination in 1980, and promotion of respondent no.5 to the rank of Inspector was done on the basis of date of passing the examination for which another quota was fixed. As respondent no.5 was promoted from another group from which promotion was given on the basis of priority of date of passing the examination, the applicant cannot draw comparison with respondent no.5. This contention is also held to be without any merit and is rejected.

7. In the result, therefore, we hold that the Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
17.8.2000
VICE-CHAIRMAN

August 17, 2000/AN/PS