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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.265 OF 1995
Cuttack this the 12th day of March/02

Muralidhar Sahu & another ... Applicants

-VERSUS-

Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?

2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not ?

} no


12/03/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 265 OF 1995
Cuttack this the 12th day of March, 2002

CORAM:

THE HON'BLE SHRI M.P. SINGH, MEMBER (ADMINISTRATIVE)
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

...

1. Shri Muralidhar Sahoo,
Commercial Inspector, Grade-I,
S.E.Rly, Cuttack
2. Shri Sasank Sekhar Panda,
Commercial Inspector, Grade-II,
S.E.Rly, Bhubaneswar

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Applicants

By the Advocates

M/s. Manoj Mishra
U.C. Pattnaik
D.K. Pattnaik

-VERSUS-

1. Union of India through the General Manager, South Eastern Railway, Garden Reach, Calcutta-700043
2. Chief Personnel Officer(Commercial), S.E.Railway,
14, Strand Road, Calcutta-700001
3. Divisional Railway Manager, Khurda Road, S.E.Railway,
At/PO-Jatni, Dist-Khurda
4. Divisional Personal Officer, Khurda Road, S.E.Railway,
At/PO-Jatni, Dist-Khurda
5. Senior Divisional Commercial Manager, S.E.Railway,
Khurda Road, At/PO-Jatni, Dist-Khurda

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Respondents

By the Advocates

M/s. Bijay Pal
A.K. Mishra
A.Pal

ORDER (ORAL)

MR M.P. SINGH, MEMBER (ADMINISTRATIVE): Two applicants by filing this Original Application under Section 19 of the Administrative Tribunals Act, 1985, have sought for the following reliefs.

"...the Hon'ble Tribunal be graciously pleased to allow the application by directing the respondents to declare the applicant Nos. 1 and 2 to have been duly promoted to the respective higher posts of C.I. Grade-I and Grade-II respectively with retrospective effect from 1.3.93 and given all pecuniary and other benefits accordingly..."

2. The facts of the case, according to applicants are that with a view to remove stagnation in promotion in respect of Group C and D of the Commercial Department, the Railways introduced a policy called "Cadre Restructuring Policy" which came into force w.e.f. 1.3.1993 (Annexure-1). As per the said policy, two posts have been created in the revised cadre strength in CCI scale of Rs.2375-3500/- and as against the existing strength of 3 Commercial Inspectors Gr.I in the scale of Rs.2000-3200/-, it has been reduced to 2 posts. In respect of Commercial Inspector Grade II in the existing scale of Rs.1600-2660/- there has been no reduction and the strength being 1 remains unaltered. So far as Commercial Inspector Grade-III in the scale of Rs.1400-2300/- is concerned, there has been reduction of 1 post as against 2. The case of the applicants is that applicant No.1 was working as Commercial Inspector Grade-II (Rs.1600-2660) and as per the modified scheme/restructuring policy, he ought to have been promoted to the next higher grade, i.e. CI Gr.I (Rs.2000-3200) as against the resultant vacancy caused due to promotion of one Shri B.K.Sahoo to the post of Chief C.I. (Rs.2375-3500) vide Annexure-2 and consequently applicant No.2, ~~who~~ was working as CI Gr.III in the scale of Rs.1400-2300/-, to the next higher grade of CI Gr.II in the scale of Rs.1600-2660/- w.e.f. 1.3.1993. It is the admitted position that both the applicants were promoted to the posts of CI Gr.I and Gr.II on 10.5.1994 and 15.7.1994, respectively vide Annexures-4 and 5, respectively. The representations filed by them to accord promotions in accordance with the Restructuring Policy/Modified Scheme having not been responded by the respondents, this

application has been filed with the prayer referred to earlier.

3. In the counter-reply filed by the respondents, no specific stand has been taken by them except the averment that the applicants herein having been promoted in due course are not entitled to get the benefit of the said scheme.

5. The sole point for determination in this case is whether the applicants are entitled to get the benefits under the Restructuring Scheme vide Annexure-1. For the purpose of adjudicating this point, it would be worthwhile to extract Para 4 and 4.1 of the said scheme as under :

"4. The existing classification of the posts covered by these restructuring orders as selection and non-selection, as the case may be, remain unchanged. However, for the purpose of implementation of these orders, if an individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and Confidential Records, without holding any written and or viva test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by Special dispensation, in view of the numbers involved, with the objective of expediting the implementation of these orders.

4.1 Vacancies existing on 1.3.93 except direct recruitment quota and those arising on that date from this cadre restructuring including chain/ resultant vacancies should be filled in the following sequence:

i) from panels approved on or before 1.3.93 and current on that date, (ii) and the balance in the manner indicated in Para-4 above".

5. The admitted fact is that one Shri B.K.Sahoo was promoted to the Grade of Chief C.I. in the scale of Rs.2375-3500/- pursuant to Restructuring/Modified Scheme w.e.f. 1.3.1993,

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the date on which the said scheme came into force, causing a resultant vacancy in the post of CI Gr.I in the scale of Rs.2000-3200/- . Had the applicant No.1 been promoted against the resultant vacancy caused by Shri Sahoo to the post of C.I. Gr.I, certainly, there would have been another vacancy released for the promotion of applicant No.2 to the post of C.I. Gr.II in the scale of Rs.1660-2660/- . It is not the case of the respondents that there were no vacancies to accommodate the applicants nor were they eligible for promotion as on 1.3.1993, the date on which the Restructuring/Modified Scheme came into force.

6. Heard the learned counsel of both sides at length and perused the records.

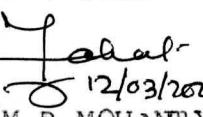
7. On perusal of letter dated 27.1.1993, issued by the Railway Board, we are satisfied that the vacancies were required to be filled by the modified procedure. Apart from this the Divisional Headquarters at Khurda Road, also sought clarification from the Zonal Railways with regard to filling the resultant vacancies which became available due to promotion of Shri B.K.Sahoo to the grade of Chief C.I. The Zonal Railway vide their letter dated 28.10.1994 clarified that the promotions of applicant Nos. 1 and 2 were due against the resultant vacancies, for which modified procedure was to be applied and the benefit of promotion to the eligible and suitable staff under the modified manner should have been extended from 1.3.1993, if otherwise eligible as per the directives of the Railway Board.

8. From the above clarification of the Zonal Railways and from Para-4.1 of the Restructuring Scheme issued on

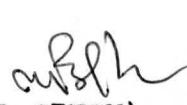


27.1.1993, we are of the considered view that the resultant vacancies which became available on account of promotion of one B.K.Sahoo to Chief C.I. were required to be filled in accordance with the Restructuring Scheme, by following the modified procedure w.e.f. 1.3.1993. In this view of the matter, we allow this Original Application and direct the Respondents to consider the applicants for promotion to the posts of C.I. Gr.I and Grade-II, w.e.f. 1.3.1993, under the Restructuring Scheme by following modified procedure. If they are found suitable, they shall be so promoted w.e.f. 1.3.1993 with all consequential financial benefits.

8. The Original Application is disposed of in the aforesated terms. There shall, however, be no order as to costs.


12/03/2002
(M.R.MOHANTY)

MEMBER (JUDICIAL)


(M.P.SINGH)
MEMBER (ADMINISTRATIVE)

B.K.SAHOO//