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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

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ORIGINAL APPLICATION NO. 348 OF 1995
Cuttack this the 18th day of March/2002

S. Sahu

...

Applicant (s)

-VERSUS-

Union of India & Ors.


...

Respondent (s)

(FOR INSTRUCTIONS)

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

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CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.348 OF 1995
Cuttack this the 18th day of March/2002

CORAM:

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

Somanath Sahu, 51 years,
Son of P.C.Sahu, Gandhinagar, Berhampur
Ganjam - at present serving as Public Relation
Inspector-II, Berhampur, Ganjam

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By the Advocates	Petitioner M/s.A.K.Misra S.K.Das J.Sengupta
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-VERSUS-

1. Union of India through Director General of Posts, Dakbhaban, New Delhi
2. Chief Postmaster General, Orissa Circle, Bhubaneswar
3. Laxmicharan Mohapatra, S.P.M., Kotapeta, Berhampur-4, Ganjam
4. Postmaster General, Berhampur Region, Berhampur, Ganjam

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By the Advocates	Opp.Parties Mr.A.K.Bose, Sr. Standing Counsel
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ORDER (ORAL)

MR.M.P.SINGH, MEMBER (ADMINISTRATIVE): In this Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 23.12.1994 vide Annexure-7, whereby his request for stepping up pay has been rejected and to direct the respondents to grant him the same pay as is being drawn by Opp.Party No.3, w.e.f. 30.11.1983 and 1.10.1991, respectively.

2. The admitted facts of this case are that the applicant joined the Postal Department as Postal Assistant on 11.11.1964 and on being successful in the L.S.G.Examination in which post he joined on 27.9.1983, whereas Op No.3 joined
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said cadre on 30.11.1983 and thus the applicant is senior to O.P. No.3. It is the case of the Respondents that for the purpose of pay fixation, seniority in the Divisional Gradation List is taken into account, as per D.G. (P&T) instruction dated 5.2.1976 vide Annexure-I. It is the further case of the respondents that OP No.3, Shri L.C.Mohapatra was recruited to the cadre of Postal Assistant, in which post he joined on 6.12.1960, by which time applicant was not appointed in the Department. Accordingly, O.P. No.3 is senior to the applicant in the Divisional Gradation List of Berhampur Division, being placed at Sl. No. 163 vis - a- vis the applicant at Sl. No. 166 vide Annexure-II. It is also their further stand that at the time of promotion to the L.S.G. cadre on 27.9.1983, while the applicant was drawing basic pay of Rs.420/-, Respondent No.3, on the date of promotion to that cadre under Time Bound Promotion Scheme on 30.11.1983 was drawing Rs.468/- and therefore, the disparity arises due to joining by the Respondent No.3 in the Department earlier than the applicant.


3. For the purpose of considering the stepping up of pay, as claimed by the applicant, it would be worthwhile to extract Govt. of India Order No.(22) below F.R.22-C(Now F.R.22(1)(a)(1)), which reads as under :

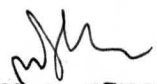
“(22)Removal of anomaly by stepping up of pay of senior on promotion drawing less pay than his junior - (a) As a result of application of FR 22-C(Now FR 22(1)(a)(1) - In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 1.4.1961 drawing a lower rate of pay in that post than another Govt.servant junior to him in the lower grade and promoted or appointed

subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely :-

- (a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;
- (c) The anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer".

4. In view of the above provisions of Rule with regard to stepping up pay, we are convinced that the case of the applicant does not satisfy the Condition(c) of the above Rule. In this view of the matter, we hold that the applicant has not been able to makeout a case for any of the reliefs prayed for. The O.A. being devoid of merit is dismissed. No costs.


(M.R. MOHANTY) 18/03/2002
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

B.K.SAHOO//