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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO. 46 Of 1995
Cuttack, this the 24th day of November, 2000

Muralidhar Dash

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
(SOMNATH SOM)
VICE-CHAIRMAN
24.11.2000

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CORAM:

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

Muralidhar Dash, son of late Paramananda Dash,
Vill-Kokalipur, P.O-Piteipur,
Via-Kaduapada,
Dist.Jagatsinghpur..... Applicant

Vrs.

1. Union of India, represented through General Manager,
South Eastern Railway, Garden Reach, Calcutta-43.
2. Chief Personnel Officer, South Eastern Railway, Garden
Reach, Calcutta-43.
3. Chief Project Manager (C), South Eastern Railway,
Chandrasekharpur, Bhubaneswar, Dist.Khurda.
4. District Project Manager (C), South Eastern Railway,
Chandrasekharpur, Bhubaneswar,
Dist.Khurda... Respondents

Advocates for applicant-M/s D.P.Dhalsamant
S.K.Patnaik

Advocates for respondents-M/s B.Pal
O.N.Ghosh
S.K.Ojha.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

JSom . In this application the petitioner has
prayed for stepping up of his pay in the post of Chief
Inspector of Works at par with Shri P.V.Subaraju with
effect from 1.11.1982.

2. The applicant's case is that he
originally joined as Inspector of Works on 14.5.1957 and
has retired on superannuation in 1990 as Assistant
Engineer. During his service career he was promoted to
Inspector of Works Grade-III, Grade-II and Grade-I and
thereafter as Chief Inspector of Works. S.K.Lal and

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P.V.Subaraju were junior to the applicant, but as Chief Inspector of Works they were drawing higher pay than the applicant. The petitioner had earlier approached the Tribunal in OA No.97 of 1987 which was disposed of in order dated 13.7.1988 and the SLP filed by the Department against that order was also dismissed by the Hon'ble Supreme Court. In that case, S.K.Lal and P.V.Subaraju were respondent nos. 6 and 7. The applicant has stated that his pay has been stepped up from the date S.K.Lal was posted as Inspector of Works Grade-I with effect from 17.6.1979, but his pay has not been stepped up with reference to pay of Shri P.V.Subaraju as Chief Inspector of Works with effect from 1.11.1982. In the context of the above, the applicant has come up in this petition with the prayer referred to earlier.

3. Respondents have filed counter opposing the prayer of the applicant and as the factual aspect was not clear from the counter, on our direction the respondents have filed an additional counter which has also been taken note of.

4. We have heard Shri D.P.Dhalsamant, the learned counsel for the petitioner and Shri B.Pal, the learned senior panel counsel (Railways) for the respondents. The learned counsel for the petitioner has filed a circular of the Railway Board dealing with stepping up of pay and this has also been perused.

J. Sam.

5. The admitted position is that the applicant was promoted as Chief Inspector of Works in the pay scale of Rs.2375-3500/- with effect from 1.1.1984. It is also admitted that the applicant, S.K.Lal and P.V.Subaraju were from the same seniority group in the Open

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Line. The respondents have also admitted that P.V.Subaraju was given ad hoc promotion as Chief Inspector of Works with effect from 1.11.1982. This has been mentioned in paragraph 6 of the additional counter filed by the respondents. It is necessary to note this because in the counter originally filed the respondents had taken the stand that P.V.Subaraju did not get his promotion as Chief Inspector of Works because his turn in the Open Line status did not come up till his retirement on 31.8.1990.

S. Som.

6. From the above recital of pleadings it appears that the sole point for consideration, which is also the sole prayer of the applicant, is whether the applicant's pay as Chief Inspector of Works should be stepped up to bring it at par with the pay of P.V.Subaraju. The circular dated 4.11.1993 of the Department of Personnel & Training circulated by the Railway Board in their letter dated 7.12.1994 lays down certain conditions on fulfilment of which stepping up can be allowed. Some of the important considerations relevant to the present case are that both the junior and senior officers should belong to the same cadre and the posts to which they have been promoted should be identical and in the same cadre. The second requirement is that the anomaly of the senior getting lower pay than the junior, who has been promoted later, must be as a result of application of FR 22-C, now FR 22(I)(a)(1). In this case we find that the applicant was promoted as Chief Inspector of Works on 1.1.1984, but P.V.Subaraju was promoted on ad hoc basis as Chief Inspector of Works on 1.11.1982. As the applicant was promoted later he cannot claim that because he is senior to P.v.Subaraju, his pay should be stepped up with reference to pay of P.v.Subaraju.

The second condition is that promotional posts held by both of them should be in the same cadre. From the counter of the respondents it appears that the applicant was promoted as Chief Inspector of Works on 1.1.1984 as per his Open Line status. Initially both the applicant and P.V.Subaraju were in the Open Line in the same seniority group. But P.V.Subaraju was a lien holder of Nagpur Division of S.E.Railway and he worked under Chief Engineer, Construction, S.E.Railway, Rayagada and Chief Engineer, Construction, S.E.Railway, Visakhapatnam. The respondents have mentioned in their additional counter that P.V.Subaraju enjoyed higher benefit of one ad hoc promotion as Chief Inspector of Works with effect from 1.11.1982 in the Construction Organisation. Therefore, P.V.Subaraju became Chief Inspector of Works in Construction Organisation which is a separate seniority unit and therefore, the second condition is also not fulfilled. The third point is that P.V.Subaraju got ad hoc promotion to the post of Chief Inspector of Works from 1.11.1982 in a different seniority unit. In the Open Line where his and applicant's seniority unit was the same, P.V.Subaraju never got promotion to the post of Chief Inspector of Works. In any case higher pay of a junior because of his ad hoc promotion would not entitle a senior to claim stepping up of his pay. This is also mentioned in paragraph 2(b) of the circular dated 4.11.1993.

J.Jm.

7. In consideration of all the above, we hold that the applicant is not entitled to have his pay stepped up, as claimed in the O.A., with reference to the

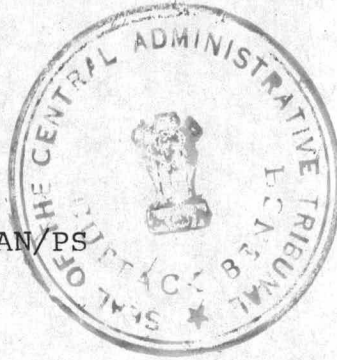
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pay of P.V.Subaraju.The O.A. is , therefore, held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

November 24, 2000/AN/PS



Somnath Som
(SOMNATH SOM)
24.11.2000
VICE-CHAIRMAN