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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 504 OF 1995
Cuttack this the 9th day of Sept./2003

Anadi Bhusan Burman ... 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 ? *No.*

[Signature]
(M.R. MOHANTY)
MEMBER (JUDICIAL)

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)
...

Anadi Bhusan Burman, S/o. late Haripada Burman
Divisional Engineer, Divisional S.E. Railway (South)
Khurda Road, Dist. Khurda

...

Applicant

By the Advocates

M/s. A.K. Mishra
J. Sengupta

VERSUS

1. General Manager, S.E. Railway, Garden Reach,
Calcutta
2. Chairman, Railway Board, Rajendra Prasad Road,
New Delhi
3. Secretary, Central Secretariat, Ministry of
Railway, New Delhi

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Respondents

By the Advocates

Mr. B. Pal
Mr. R.C. Rath

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O R D E R

MR. B.N. SOM, VICE-CHAIRMAN : This Original Application has been filed by the applicant (Shri Anadi Bhusan Burman) formerly D.E.N., S.E. Railway (South), Khurda Road, assailing the inaction on the part of the Respondents-Department for not giving him promotion to Junior Administrative Grade (in short J.A.G.) with retrospective effect.

2. The facts of the case are that while functioning

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as Divisional Engineer, Adra, the applicant had withdrawn Rs.25,000/- on 27.1.1987 for restoration of damaged track -from out of station earnings. Subsequently, this action of his was considered as a misconduct and he was issued with a minor penalty charge memo on 24.11.1992. This disciplinary proceedings resulted in imposition of punishment of censure on him vide order dated 29.12.1993 (Annexure-). Aggrieved by this order he submitted an appeal to the Member, Railway Board in February, 1993. On 25.11.1994 he was advised to address his appeal to the President of India, which he complied with on 1.12.1994. While the matter stood thus till the filing of this O.A. about 16 to 20 officers junior to him were promoted by the Respondents to J.A.G. overlooking his claim. His repeated representations submitted to the concerned authorities did not bear any fruit. Aggrieved by this inaction on the part of the Respondents-Railways, the applicant has approached the Tribunal in this Original Application under Section 19 of the Administrative Tribunals Act, 1985, for redressal of his grievance. He, therefore, has prayed that the Respondents should be directed to promote him to J.A.G. with retrospective effect.

3. The Respondents-Railways have contested the application. They have admitted that the applicant was proceeded against under Railway Service (Disciplinary & Appeal) Rules (in short Rules) for such an act of commission and omission, which resulted in imposition of penalty of censure. But they have pointed out that the claim of the applicant that he is due for promotion to J.A.G. is without any basis and is devoid of merit. Respondents have

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pointed out that the applicant is presently holding a substantive post of in Group - B of Indian Railways Engineering Service (I.R.S.). He is yet to be promoted to Group A on regular basis. A term for an officer for promotion to J.A.G. comes only after one reaches the senior time scale and having an experience of not less than nine years in the time scale. In this case as the applicant is yet to be promoted on regular basis to Group A, the question of promoting him to J.A.G. is for a ~~and~~ cry. They have further stated that the applicant was considered for promotion to junior time scale (Group-A) by the D.P.C. which met in November, 1992, but the recommendations of the D.P.C. had to be kept in a sealed cover, because of the disciplinary case which was initiated against him on issuance of charge-memo on him on 24.11.1992. It is true that the applicant has been given adhoc promotion as a Divisional Engineer (in short DEN) in Group A, but as the adhoc service is not counted for the purpose of of considering eligibility for further promotion, his claim for consideration for promotion to J.A.G. is devoid of merit. As stated earlier, the applicant was considered by the D.P.C. which met in November, 1992 ^{which} kept its recommendation in a sealed cover, no further action could be taken to promote him as he was awarded minor penalty of censure.

4. We have heard the learned counsel on both sides and have perused the records placed before us.

5. The only issue to be decided in this Original Application is whether the applicant is eligible for

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promotion to J.A.G. of I.R.S. In the Original Application the applicant more than making the claim that the Respondents should have promoted him to J.A.G. and that several officers junior to him have been promoted to J.A.G. ~~for which he is also~~ is entitled from 1992, he has supplied no material to show that he was within the zone of consideration of senior time scale officers for promotion to J.A.G. From the counter submitted by the Respondents it is clear that the applicant in 1992 was in the zone of consideration from Group-B of I.R.S.E. service to junior time-scale (in short JTS) of that service. He could not be promoted on regular basis to Group A of I.R.S.E. in 1992, because of the disciplinary case in which he was involved and which ultimately resulted in imposition of penalty of censure. In view of the above discussion, it is clear that the applicant having not been promoted to the time-scale of I.R.S.E., he did not acquire the necessary eligibility conditions for being considered for promotion to J.A.G. of that service.

6. For the reasons discussed above, we find no merit in this Original Application which is accordingly dismissed, leaving the parties to bear their own costs.

(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN