

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO. 514 OF 1995

Cuttack, this the 17th day of August, 1999

Shri S.C.Samaddar .... 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  
17.8.99

(3)

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.**

**ORIGINAL APPLICATION NO. 514 OF 1995**

Cuttack, this the 17th day of August, 1999

**CORAM:**

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

.....  
Shri S.C.Samaddar, aged about 53 years,  
son of late Jogendra Nath Samaddar, at present working  
as Assistant Engineer (ASW) (Civil), Orissa Circle,  
Bhubaneswar, Telecom Civil Sub-Division, Bhubaneswar,  
At/Town-Bhubaneswar, District-Khurda, Pin-751 007

.....  
Applicant

Advocate for applicant - Mr.H.M.Dhal

Vrs.

1. Union of India represented by the Secretary, Ministry of Communications, Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi.
2. The Director General (CW), Ministry of Communications, Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi.
3. The Chief General Manager, Telecommunications, Orissa Telecom Circle, Bhubaneswar, At/Town-Bhubaneswar, District-Khurda.
4. The Chief Engineer, Telecom Civil, Bihar & Orissa Zone, Patna  
.....Respondents

Advocate for respondents- Mr.U.B.Mohapatra  
A.C.G.S.C.

**O R D E R**

**SOMNATH SOM, VICE-CHAIRMAN**

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the memo dated 30.12.1992 at Annexure-2 in which minor penalty proceedings have been initiated against the applicant. He has also prayed for a direction to promote the applicant to the rank of

Executive Engineer with effect from 4.11.1994, the date from which his juniors got promotion to the post of Executive Engineer under orders at Annexures 6, 7 and 10. Alternatively, he has prayed that Annexures 6, 7 and 10 should be quashed insofar as these relate to the promotion of juniors of the applicant to the post of Executive Engineer.

2. The respondents have appeared and filed counter. The applicant has also filed a rejoinder with copy to the other side.

3. We have heard Shri H.M.Dhal, the learned counsel for the applicant and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents and have also perused the records.

4. For the purpose of considering this OA it is not necessary to go into too many facts of the case. At the time of hearing the learned counsel for the petitioner has filed a copy of the order dated 8.3.1996 issued by the Chief Engineer (Civil), Department of Telecommunications, Patna, in which the applicant has been exonerated of the charge levelled against him in memo dated 30.12.1992. The charge at Annexure-2 which the applicant has prayed for quashing is the charge issued in memo dated 30.12.1992 and as the applicant has already been exonerated of this charge, his prayer for quashing the charge at Annexure-2 has become infructuous.

5. The second prayer of the petitioner is for a direction to the respondents to promote him to the post of Executive Engineer with effect from 4.11.1994, the date from which his juniors have got promotion. At

the time of hearing the learned Additional Standing Counsel has filed a copy of the order dated 10.7.1996 in which the applicant has been promoted to the post of Executive Engineer. In this order it has been mentioned that the promotion will take effect from the date the applicant assumes charge. Thus, this prayer of the applicant has also been substantially granted by the departmental authorities.

6. It has been submitted by the learned counsel for the petitioner that the applicant should have been promoted with effect from 4.11.1994 when his juniors have got promotion. He has stated that according to the departmental rules during the pendency of the departmental proceedings initiated against the applicant for imposition of minor penalty the case of the applicant should have been kept in sealed cover and after his exoneration the sealed cover should have been opened and the recommendation of the DPC should have been worked out. In this case the departmental authorities have committed a mistake by not adopting the sealed cover procedure. We have considered the above submission of the learned counsel for the petitioner. During the pendency of the departmental proceedings the departmental authorities should have adopted the sealed cover procedure and followed it up later on after the applicant has been exonerated of the charge. As the departmental authorities have failed to do so, we dispose of this O.A. by issuing a direction to the departmental authorities that they should consider giving promotion to the applicant to the post of Executive Engineer with effect from the date his immediate junior in the cadre got promotion to the post

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of Executive Engineer. If necessary a review D.P.C. may be called and the suitability of the applicant for promotion to the post of Executive Engineer with effect from the date of promotion of his immediate junior should be considered. This action should be completed within a period of 120 (one hundred twenty days) from the date of receipt of copy of this order.

7. In the result, therefore, the Original Application is partly allowed in terms of our observation and direction above but without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM) 17.8.99  
VICE-CHAIRMAN

AN/P!S