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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 556 OF 1995.

Cuttack, this the 30th day of June, 2000.

SRIDHAR PANDA.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

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RESPONDENTS.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not, 45 -
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
30.6.2000

30-6-2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 556 OF 1995.
Cuttack, this the 30th day of June, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.).

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SRI SRIDHAR PANDA,
Dy. Superintendent of Rly Mails,
S/o. late Jagabandhu Panda,
At-Headquarter Calcutta RMS Dvn.,
Calcutta-1 (W.B.).

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APPLICANT.

By legal practitioner: M/s. G. K. Mishra, G. N. Mishra, K. K. Swain,
Advocates.

- VERSUS -

1. Union of India represented through
Director General (Post) Dak Bhawan,
New Delhi.
2. Chief Postmaster General,
Orissa, Bhubaneswar.
3. Shri S. Saliha, Assistant Manager,
Postal Printing Press, Bhubaneswar-10.
4. Sri Nrusingh Ch. Bhai,
Sorting Assistant, HSG-I,
Respondent No. 4,
C/o. Senior Superintendent, RMS' N'
Division, Cuttack.

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RESPONDENTS.

By legal practitioner: Mr. B. Dash, learned Additional Standing
Counsel (Central).

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O R D E R

MR. G. NARASIMHAM, MEMBER(JUDICIAL) :

Under Annexure-R/1, dated 13-10-1992, issued by the Director General of Posts, the post of A.S.R.M.(Bags) in the Office of the Supdt., PSD, Bhubaneswar and Platform Inspector, Cuttack RMS were upgraded to the grade of Higher Selection Grade-I. It was ordered that promotion to the upgraded posts would be given effect to from 1.8.1988 on notional basis and from 1.9.1990 on actual basis. Applicant, Sridhar Panda, served as ASRM(Bags), Bhubaneswar from 11.6.1990. He was transferred from that post and posted as S.As, CO, Bhubaneswar by order dated 30.10.1992 (Annexure-1). These facts are not in controversy.

2. Case of the applicant is that though he had physically worked against the upgraded post, he was deprived of getting the financial benefits and Respondent No. 3 who had not worked against that upgraded post was given the financial benefits for that period. Further his case is that Respondent No. 4, N.C. Bhai, who is junior to him was given promotion in that one of the upgraded vacancies, on the ground that who was a member of the SC which is contrary to law. Accordingly, while praying for actual financial benefits in the upgraded scale from 1.9.1990 to 30.10.1992, the applicant also prays for a direction to the Departmental Respondents to consider his case for promotion to HSG Gr.I against the two vacancies and also for the financial benefits of the upgraded scale till 14.12.1992 when he was relieved from Orissa Circle.

3. Private Respondents though duly noticed, had not entered appearance.

4. The Department in their counter say that since two posts were upgraded, one of them was marked for promotion amongst the ASRMs of SC community and the other post for ASRMs of unreserved community. Respondent No. 4, Shri N.C.Bhoi, was the seniormost ASRM in the SC community and Respondent No. 3 was the seniormost ASRM in unreserved community. Accordingly, two upgraded posts were filled up on promotion by Respondents 3 and 4 in order at Annexure-R/2. Consequently, applicant was transferred and posted as SAs Circle Office. On 11.5.1993, the Departmental Promotion Committee considered the promotion to HSG cadre w.e.f. 1.8.1988 on regular basis and recommended promotions of Respondents 3 and 4 to HSG grade from 1.8.1988 to 31.8.1990 on notional basis and from 1.9.1990 on actual basis.

5. Applicant in his rejoinder, submitted that by order dated 29.10.1992 in Annexure-R/2, Respondents 3 and 4 were promoted on adhoc basis against the upgraded posts and in case of adhoc promotion, reservation rule can not be applied.

6. We have heard Mr. G.K.Mishra, learned counsel for the Applicant and Mr.B.Dash, learned Additional Standing Counsel appearing for the Departmental Respondents and have also perused the records.

7. Though we entertain doubt that upgradation involves promotion, we do not like to deal this point since neither the applicant nor the Department agitated this point and submitted their views assuming upgradation would be ~~involves~~

promotion. At the outset we make it clear that the contention of Shri Mishra, learned counsel for the petitioner that in case of adhoc promotions, roster point principle is not applicable can not be accepted, specially in this case when question of promotion on account of upgradation of posts were considered. Respondent No. 4, an employee of the reserved community, due for promotion was very much available.

It is not dispute that Respondent No. 3 is senior to applicant. Hence as against the general quota, promotion of Respondent No. 3 in preference to the applicant was not unjustified.

We, therefore, disallow the prayer of the applicant for his promotion to one of the upgraded posts in preference to Respondents 3 and 4.

9. The other question is to be decided as to whether the applicant is entitled to the financial benefits of the upgraded scale w.e.f. 1.9.1990 till 30.10.1992, the date of his transfer from that post. There is no dispute that he actually worked in that upgraded post during that period.

As per the circular dated 13.10.1992, under Annexure-R/1, the upgraded scale is actually payable from 1.9.1990 onwards.

We, therefore, do not see any justification for the Deptt. in disallowing this upgraded scale to the applicant from 1.9.1990 to 30.10.1992, the period he actually worked in that upgraded post. In the result, we direct the Departmental Respondents to pay the upgraded scale, HSG, Gr.I scale to the applicant for the period from 1.9.1990 to 30.10.1992 within a period of 90(ninety) days from the date of receipt of a copy of this order.

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9. In view of the discussions made above, the original Application is partly allowed. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN ~~2000~~

30.6.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.