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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.755 OF 1995
Cuttack this the 2nd day of July, 1998

PRONOUNCED IN THE OPEN COURT

Sudarsan Mohapatra

Applicant(s)

-VERSUS-

Union of India & Others

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.

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(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
27/7/98

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH
CUTTACK

ORIGINAL APPLICATION NO.755 OF 1995
Cuttack this the 2nd day of July, 1998

CORAM:

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

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Sri Sudarsan Mohapatra,
aged about 44 years,
Son of Krushna Chandra Mohapatra
working as Pharmacist under S.E.Railway
Khurda Road, residing at Quarter No.
G-43/B, New Colony, P.O:Jatni
District:Khurda

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Applicant

By the Advocate:

Miss Meera Ghose
P.Mohanty
T.Mohanty
R.Mohanty
NC.Ghosh
P.K.Tripathy
Md.Azad

-Versus-

1. Union of India represented
through its Secretary, Indian Railways
Rail Bhawan, New Delhi

2. The Chief Personnel Officer,
South Eastern Railway
Garden Reach, Calcutta

3. The Divisional Railway Manager
South Eastern Railway
Khurda Road, Jatni, Dist:Khurda

4. The Senior Divisional Personnel Officer
South Eastern Railway
Khurda Road, PO:Jatni, Dist:Khurda

5. The Medical Superintendent
South Eastern Railway, Khurda Road
Jatni, Dist:Khurda

6. The Divisional Medical Officer
South Eastern Railway
Khurda Road
Jatni, Dist:Khurda

7. Sri P.Koteswar Rao, Pharmacist
Khurda Road, Dist:Khurda

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Respondents

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By the Advocate:

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M/s.B.Pal
O.N.Ghosh(Res.4)

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ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to respondents to step up his at par with Respondent No.7(P.Koteswar Rao) taking the date of appointment of the applicant as 5.11.1973 and to pay him arrear differential pay from the date the Respondent No.7 is drawing the higher pay.

2. This case was filed in January, 1995 and inspite of passage of more than two and half years, the departmental/- railways have not filed their counter. Respondent No.7(P.Koteswar Rao) has neither appeared nor filed his counter. In view of the delay in filing of counter by the departmental respondents the matter was fixed for peremptory hearing to to-day in order dated 6.5.1998 and it was ordered that the matter will be disposed of even in the absence of counter to-day. Inspite of the above order counter has not been filed. In view of this we are unable to give any further time for filing counter and the matter has, therefore, been heard on merits even in the absence of counter.

3. The short facts of this case according to applicant are that he was initially engaged as an adhoc Pharmacist under the Railways on 5.11.1973. Respondent No.7 was also appointed as an adhoc Pharmacist on

24.1.1976. ~~Apparently~~ It is submitted by the learned counsel for the petitioner that according to seniority list copy of which is at Annexure-1, petitioner's name appears ~~against~~ Sl.No.73 whereas name of Res.7 appears ~~against~~ Sl.No.74 showing that the petitioner is senior to Res.7. The adhoc appointment of the petitioner and Res.7 were apparently continuing from time to time and ultimately in order dated 17.1.1976 which is at Annexure-2 a direction was issued that the services of adhoc Pharmacists including the applicant and Res.7 should be given break after three months. In this order it was mentioned that the petitioner having been recruited on 27.9.1975 a break in his case has already become due as three months period was over. The date of appointment of Res.7 was shown as 14.11.1975 and it was indicated that on completion of three months a similar break as in the case of applicant should be given to him also. It is further stated by the applicant that he was found suitable by the Railway Service Commission and was appointed as Pharmacist on regular basis in order dated 20.8.1977(Annexure-3). According to this order his services were regularised with effect from 4.6.1977. The petitioner states that ^{his} services ~~xxx~~ as Pharmacist were regularised with effect from 4.6.1977 as per order at Annexure-3 and from 3.11.1977 as per entries in the seniority list at Annexure-1. According to seniority list at Annexure-1 the services of Res.7 were also regularised with effect from 3.11.1977. It further appears that both the petitioner and Res.7 along with

another person were considered for selection for the post of Pharmacist Gr.II in order dated 3.10.1991 at Annexure-4 and accordingly the petitioner was promoted to the post of Pharmacist Gr.II with effect from 24.10.1991 vide Annexure-5. The petitioner submits that Res.7 was promoted to the post of Pharmacist Gr.II only in August, 1993. It is further submitted by him that even though he was senior to Res.7 in the post of regular Pharmacist and is also senior to him in the rank of Pharmacist Gr.II having been promoted about two years prior to promotion of Res.7, he was drawing pay at the level of Rs.1750 in 1991 whereas Res.7 was drawing pay at the level of Rs.1800/-. In view of this the applicant has come up with a prayer for stepping up of his pay.

4. We have heard the learned counsel for the petitioner and Shri B.Pal, learned senior counsel appearing on behalf of the respondents. It is submitted by the learned counsel for the petitioner that even though the petitioner is senior to Res.7 both in the rank of Pharmacist and also Pharmacist Gr.II his prayer for stepping up of his pay has been rejected by the departmental authorities in order dated 20.6.1994 vide Annexure-8 on the sole ground that according to reckoning of the departmental respondents, Res.7 is senior to the petitioner. At Annexure-8 the departmental authorities have mentioned that Res.7 (P.Koteswar Rao) was appointed as Pharmacist Gr.III on 14.8.1975 whereas the petitioner's date of appointment as Pharmacist Gr.III is 22.1.1976 and therefore, question of stepping up of pay

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of the petitioner vis-a-vis that Res.7 does not arise. It is submitted by the learned counsel for the petitioner that on the averments and the documents produced by him it is clear that the petitioner is senior to Res.7 and the ground on which his representation has been rejected vide Annexure-8 is patently incorrect.

5. It is submitted by the learned Senior counsel Shri B.Pal that petitioner has filed a series of further representations at Annexures-9, 9/A and 10 and these representations are still pending. In view of the fact that in this case neither the departmental respondents nor Res.7, on whom notices have been duly served, have filed their counter, we think that this matter can be disposed of by issuing a direction to Res.2, 3 and 4 to consider and dispose of the representations at Annexures-9, 9/A ad 10 within a period of 120 days from the date of receipt of this order. It is so ordered. The petitioner is given liberty to approach this Tribunal in case he is dissatisfied with the order to be passed by the departmental authorities on his representations referred to above.

6. With the above direction the Original Application is disposed of. There shall be no order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.Sahoo, C.M.//

Somnath S.
(SOMNATH S.
VICE-CHAIRMAN)