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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 657 OF 1996.

Cuttack, this the 13th day of April, 1999.

P.K. ACHARY.

...

APPLICANT.

- Versus -

UNION OF INDIA & 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, &c. *NO*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
13.4.99

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(18)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 657 OF 1996.

Cuttack, this the 13th day of April, 1999.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

....

P.K. Achary, aged about 46 years,
Son of P. Appa Rao, Skilled Artisan,
Grade-II office of Deputy C.B.O./
Construction, South Eastern Railway,
Chandra Sekharpur, Bhubaneswar,
Dist. Khurda (Orissa).

... Applicant.

By legal Practitioner: M/s. C.A. Rao, S.K. Behera, Advocates.

- Versus -

1. Union of India through the
General Manager, South Eastern
Railway, Garden Reach, Calcutta-43,
West Bengal.
2. Chief Administrative Officer,
South Eastern Railway (Projects),
Chandrasekharpur-16, Bhubaneswar,
Dist. Khurda, Orissa.
3. Chief Project Manager,
South Eastern Railway,
Chandrasekharpur, Bhubaneswar,
Dist. Khurda, Orissa.
4. Deputy Chief Personnel Officer,
South Eastern Railway, Chandrasekharpur,
Bhubaneswar-16, Dist. Khurda, Orissa. ... Respondents.

J. Sam.
By legal practitioner: M/s. D. N. Mishra, S.K. Parida, Standing
Counsel (Railways).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application u/s.19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to give him all consequential reliefs as refixation of proper seniority from 1.4.1973, giving of the departmental promotion and higher scale of pay from the date from which his juniors were promoted. In this case, learned Standing Counsel appearing for the Respondents have filed a Memo with copy to other side in which it has been submitted that an Administrative decision has been taken to consider the applicant's case for redesignating him as adhoc head clerk with his Juniors as per Annexure-5 to the OA. Applicant can be treated as Jr. Clerk w.e.f. 7.6.1990, as Adhoc Sr. clerk after completion of two years as Jr. Clerk and adhoc Head Clerk w.e.f. 31.5.1997 i.e. from the date from which his juniors were promoted to the post of adhoc Head Clerk. It is also submitted that for all the promotions, applicant case will be considered on proforma benefit and his pay will be fixed at the same pay as his juniors were drawing. In view of this, learned counsel for the applicant Mr. C.A. Rao submits that the reliefs claimed by the applicant has already been granted by the Departmental Authorities but he only prays that the consequential benefits should be allowed to him. It is submitted by the learned Additional Standing Counsel appearing for the Respondents that in the memo filed by him, it has been stated that this promotion and pay fixation will be given on proforma basis and he will not be entitled to the actual financial benefits for the above

S. Som

applicant
Adms.

periods. It is only for this point, we have heard Shri C.A. Rao, learned counsel for the Applicant and Shri D.N. Mishra, learned Senior Standing Counsel appearing for the Respondents. In accordance with the law as laid down by Their Lordship's of the Hon'ble Supreme Court in K.V. Jankiraman Vrs. Union of India and others reported in AIR 1991 SC 2010 the applicant would be entitled to the actual financial benefits flowing from this promotion because it was not his ~~fault~~ ^{fault} for which he was not allowed to work in the higher posts and the prohibition imposed in FR-56 would not be attracted in this case. In consideration of this, we dispose of the Original Application after taking note of the Memo filed by the Respondents with a direction to the Respondents that the applicant should be allowed the actual financial benefits for the promotions granted to the applicant by the Respondents. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.