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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

Original Application No.659 of 1996
cuttack, this the 13th day of February, 2004.


Purna Chandra panigrahi. Applicant.

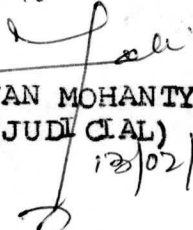
-Vrs.-

Union of India & Ors. 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


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
13/02/04

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 659 of 1996
Cuttack, this the 13th day of February, 2004

C O R A M:

THE HONOURABLE MR. B.N.SOM, VICE-CHAIRMAN

A N D

THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)

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purna chandra panigrahi,
Aged about 54 years,
S/o.Late Banchhanidhi panigrahi,
Vill./Po: Guamel, Dist.Bhadrak. Applicant.

By legal practitioner : M/s.Aswini Kumar Mishra,
P.K.Padhi, Advocates.

-Versus-

1. Union of India represented by its Secretary, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi-1.
 2. Chief postmaster General, Orissa Circle, At/Po: Bhubaneswar, Dist.Khurda.
 3. Director of Postal Services(Bhubaneswar,) O/o.the Chief postmaster General, Orissa Circle, At/Po: Bhubaneswar, Dist.Khurda.
 4. postmaster General, Sambalpur Region, At/Po/Dist.Sambalpur.
 5. Director of Postal Services, Sambalpur, O/O.the postmaster General, Sambalpur, At/Po/Dist.Sambalpur.
 6. Superintendent of Post Offices, Bhadrak postal Division, Bhadrak.
 7. K.C. Mohanty, (H.S.G.II SPM), At/Po: Balikhanda, Dist.Bhadrak,
 8. L.M.Barel (THH) (H.S.G. II, S.P.M.), At/Po: Randiahata, Dist.Bhadrak.
 9. M.D.Toberak (H.S.G.II, S.P.M.), At/Po: Madhab nagar, Dist.Bhadrak.
 10. G.S.Mohapatra (H.S.G-II, A.P.M.Accounts) At/Po: Bhadrak, HO Dist.Bhadrak.
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11. M.K.Mishra(H.S.G.-II,S.P.M.)
At/Salandi, Colony,
Po/Dist.Bhadrak.
12. P.C.Pradhan, (H.S.G. II,SPM),
At/Po: Dolasahi, Dist.Bhadrak.
13. K.B.Khatua(H.S.G. II,S.P.M.),
At-Bhadrak Court Post Office,
Post/Dist-Bhadrak.
14. Dhaneswar Nayak(H.S.G. II S.P.M.),
At/Po:Ghanteswar, Dist.Bhadrak.
15. M.P.Nayak, (H.S.G. II,S.P.M.)
At/Po:Banka Bazar, Dist.Bhadrak.
16. P.C.Rout(H.S.G.II S.P.M.),
At/Po:Barahat Trilochanapur, Dist.Bhadrak.
17. D.K.Samal(H.S.G. II S.P.M.),
At/Po:Bhandari pokhari DistBhadrak.
18. Gangadhar Biswal(H.S.G.-II,S.P.M.),
At/Po:Motto Dist.Bhadrak.
19. B.M.Nayak(A),H.S.G. II,S.P.M.,
At/Po:Guamal, Dist.Bhadrak.
20. B.C.Mallik, (TPH) (H.S.G. II,S.P.M.),
At/Po:Asurali, Dist.Bhadrak.
21. Judhistir Nayak(T), (H.S.G.II,S.P.M.)
At/Po:Nangamahala, Dist.Bhadrak.

.... Respondents.

By legal practitioner: Mr.A.K.Bose,
Senior Standing Counsel(Central) .

O R D E R

MR.MANORANJAN MOHANTY, MEMBER(JUDICIAL):

Applicant was appointed as a Time Scale Clerk
on 6.10.1962 and, after completion of 16 years of
satisfactory service, he was granted the benefit(as if
getting promotion) to the cadre of LSG w.e.f. 30.11.1983
under the TBOP scheme. Subsequently, BCR scheme was introduced

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w.e.f. 1.10.1991. Under the said scheme, one who completed 26 years of satisfactory service, is to be granted promotional benefits in the next higher scale of pay (i.e. Rs. 1600-2660/-) in HSG cadre. Accordingly, cases of 44 officials in the Bhadrak Division were considered by the DPC held on 12.2.1992; but the DPC recommended the cases of only 39 officials and did not recommend the names of five officials (including the Applicant), but however, in the next DPC meeting, on being found suitable, the Applicant (along with 13 others) was given promotional benefits under the BCR scheme w.e.f. 1.7.1992. Having been unsuccessful in his attempt, the Applicant filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with the prayer to quash the order under Annexure-4 and to direct the Respondents to grant the promotional benefit to the Applicant under the BCR scheme w.e.f. 1.10.1991 and to quash the order/gradation list dated 29.7.1993 with direction to the Respondents to keep the name of the Applicant above Sri K.C. Mohanty at Sl.No. 22 and below Sri Sadhu Ch. Das at Sl.No. 21.

2. Respondents have filed their counter stating therein that the Applicant was proceeded twice under Rule-16 of CCS (CCA) Rules, 1965 vide SPOs (Bhadrak) Memo dated 20.7.1987 and 20.3.1990 and, ultimately, the Applicant was visited with the punishment of recovery

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of Rs.1200/- in twenty monthly instalments. The punitive recovery process came to an end in the month of October, 1991 (that was payable in November, 1991) and, therefore, the DPC held on 12.2.1992 did not consider the Applicant suitable for such BCR promotion and in the next DPC, however, the applicant was found suitable for such promotion w.e.f. 1.7.1992. Accordingly, he was promoted vide C.O. Memo dated 25.9.1992. It is the case of the Respondents that the DPC did not recommend the case of the applicant, on overall assessment of the records of service, and not basing on the punishment alone. As regards the various representations referred to by the Applicant, it has categorically been pointed out by the Respondents that they have not received any such representation nor he has submitted any representation through the controlling authority i.e. Respondent No.6. Since the Applicant was found unsuitable for such BCR promotional benefit, the Respondents have rightly fixed the seniority of the persons, who were found suitable in the first DPC, and promoted earlier than the Applicant. It is stated by them that the penalty of recovery was in force as on 1.10.1991 and there is no such provision to give reason to the Applicant as to why the DPC did not consider him suitable. They have also strongly denied the question of any malafides or discriminatory attitude of the Respondents. In this view of the matter, the Respondents have contested the case of the Applicant.

3. We have heard learned counsel for both sides and perused the materials placed on record.

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Now the sole question for determination in this O.A. is as to whether the Applicant was not given promotion due to the penalty imposed in the minor proceedings or due to any other reason. If it is due to minor penalty, as to whether he is entitled to get the same in view of the circulars of the DOP&T that has been relied upon by the learned counsel for the Applicant.

4. Applicant, by filing an affidavit, has brought to our notice that in a similarly circumstanced case, one Sri Chaitanya Ch. Mohanty, APM-I of Bhadrak H.O. was given such ^{HSG-I promotion} BCR promotion while the punishment of recovery was still in force and, accordingly, he was posted as HSG I postmaster of Bhadrak Head Post Office. He has also relied upon the Memorandum of the Govt. of India (Department of Personnel) dated 15th May, 1971 and stated that punishment of recovery is not a bar for promotion and, in a similarly circumstanced case, another official has been promoted.

5. Since the Respondents have stated that they have not received any representation of the Applicant, and the applicant submits that on the face of the OM dated 15.5.1971 other officials have been promoted (including one Sri Chaitanya Ch. Mohanty), we think it just and proper to command the Respondents to examine/re-examine the grievance of the Applicant, afresh and in case it is found that in the similar situations, promotion has been given to any other person, then the case of the Applicant shall be reconsidered for giving him

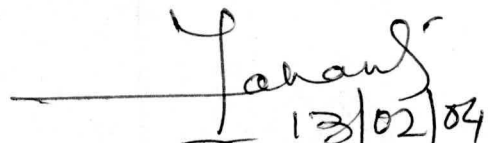
Correction
carried out
by order dtd.
23.9.2004 of
this Tribunal.

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promotional benefits w.e.f. 1.10.1991 by keeping in mind the DDP&T circular. We order accordingly and the entire exercise should be completed by the Respondents within a period of 90 days from the date of receipt of a copy of this order. In the result, this O.A. is disposed of accordingly. No costs.


(B.N.SOM)
VICE-CHAIRMAN


13/02/04
(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)