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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.47 OF 1998.

Cuttack this the 30th day of June, 1999.

Madan Mohan Das. 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 or not? *No*

Somnath S. M.
(SOMNATH S. M.)
VICE-CHAIRMAN

30.6.99

30.6.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

CE NTRAL ADMINISTRATIVE TRIBUNAL
C UTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 47 OF 1998.

Cuttack, this the 20th day of June, 1999.

C O R A M:

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

Shri Madan Mohan Das,
Aged about 49 years,
S/o. Sri Arjun Das,
Senior Stenographer,
Central Rice Research Institute,
Cuttack-753 006. Applicant.

By legal practitioner: M/s. P. V. Ramdas, P. V. B. Rao, Advocates.

-Versus-

1. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-110 001.
2. The Director,
Central Rice Research Institute,
Cuttack-753 006.
3. The Senior Administrative Officer,
Central Rice Research Institute,
Cuttack-753 006.
4. Sri Kumuda Bandhu Agasti,
S/o. Sri Shiba Charan Agasti,
Senior Stenographer,
Central Rice Research Institute,
Cuttack-753 006. ... Respondents.

By legal Practitioner : Mr. Ashok Mishra, Senior panel counsel
(Central).

O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL):

Applicant Madan Mohan Das a Member of Scheduled Caste serving as Senior Stenographer in the Central Rice Research Institute, Cuttack, in this Original Application filed on 21.1.1998 seeks direction to the Respondents to consider his case on the roster point after Shri M.K. Mahana vacated the post of Senior Stenographer on promotion; to

confer the benefit of promotion of the applicant to the post of Senior Stenographer, CRRI, Cuttack to take effect from 18-11-1993 and for fixing his seniority above Sh.K.B. Agasti (Respondent No.4) on his promotion as Senior Stenographer from 18-11-1993.

2. It is the admitted case that Respondent No.4 joined the post of Stenographer on 9-8-1972 and subsequent to that applicant joined as Stenographer on 3-10-1972. In Original Application No.481 and 482 of 1991 filed by M.K. Mahana, Stenographer, this Tribunal in judgment dated 15-9-93, directed his promotion to the post of Superintendent (Audit and Accounts) with retrospective effect from 1972. This was ultimately accepted by the Departmental and retrospective promotion was accordingly, given. Hence Shri Mahana who was holding the post of Senior Stenographer vacated that post on 18.11.1993 in view of his promotion as Superintendent (Audit and Accounts). Consequently, this post of Senior Stenographer fell vacant. That post was originally reserved for SC candidate under 40 point roster. At the time when Shri Mahana was promoted to the post of Senior Stenographer and it was also a single post and the cadre strength is one. As there was no eligible SC candidate, the said post was filled up by Shri Mahana who was a general candidate and the reservation point was carried forward to the next vacancy.

It is the case of applicant that since the post was reserved for SC, under 40 point roster, he being a SC thought junior to Res. No.4, is entitled to be promoted to that post w.e.f. 18.11.1993.

3. The stand of the Departmental Respondents is that

since the post is a single cadre post, it can not be reserved in view of the ruling of the Hon'ble Apex Court in the year 1988 in DR.CHAKRADHAR PASWAN'S case and subsequent rulings on the point.

4. We have heard Mr.P.V.Ramdas, learned counsel for the Applicant and Mr.Ashok Mishra, learned Senior Panel Counsel (Central) appearing for the Departmental Respondents. Also perused the records.

5. Mr.P.V.Ramdas, learned counsel for applicant relied on the Hon'ble Apex Court's judgment in UNION OF INDIA VRS. MADHAV reported in JT 1996 (9) SC 320 wherein a Special Bench of the Hon'ble Apex Court while disagreeing with the previous rulings, laid down that reservation provided to isolated single post on the basis of the rulings of rotation is not unconstitutional. Further in AIR 1997 SC 3687 in the case of POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH VRS K.L.NARASINGHAM, another special Bench of the Hon'ble Apex Court, re-iterated the very same ruling. These rulings undoubtedly, help the contention of the learned counsel for applicant. However, the later case of the Hon'ble Apex Court was reviewed by a Constitutional Bench of the Hon'ble Supreme Court in its decision dated 17.4.1998, reported in AIR 1998 SC 1767. The Hon'ble Apex Court in the above cited decision held that single post can not be reserved even by device of rotation of roster points. This being the latest rulings of the Hon'ble Supreme Court, we can not accept the contention advanced by Mr.P.V. Ramdas, learned counsel for applicant.

6. In the result, we do not see any merit in this Application which is accordingly dismissed. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
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(G.NAKASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.