

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 527 OF 1998
Cuttack, this the 29th day of September, 2000

Lalatendu Keshari Pasayat Applicant

Vrs.

Union of India and 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.*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
29.9.2000

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

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

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Lalatendu Keshari Pasayat, son of late Naba Kishore Pasayat, At present working as P.A. to Superintending Engineer (Electrical), Telecommunication, Electrical Circle, At-Plot No.21, Saheed Nagar, P.O-Bhubaneswar-7, District-Puri Applicant

Advocates for applicant - M/s P.K.Bhuyan
B.K.Mohanty

Vrs.

1. Union of India, Department of Telecommunication, represented through the Secretary, Sanchar Bhawan, At-20, Ashoka Road, P.O-New Delhi-110 001.
2. Superintending Engineer (Co-ordination), Telecommunication, Civil Circle, At-Durasanchar Bhawan, 3rd Floor, At-Unit-9, P.O-Bhubaneswar-7, District-Khurda.
3. Chief Engineer (Civil), Department of Telecommunication, Dr. Abdul Hai Commercial Complex, 5th Floor, At-Exhibition Road, P.O-Patna-840 001, Bihar
4. Senior Deputy Director General (BW), Sanchar Bhawan, At-20, Ashoka Road, New Delhi-110 001.
5. Chief General Manager, Telecommunication, Orissa Circle, At/PO-Bhubaneswar-1, District-Khurda.

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....Respondents

Advocate for respondents - Mr.U.B.Mohapatra.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for a direction to the respondents to give retrospective effect to the promotion given to him on 20.11.1997 by ante-dating the date of promotion to 27.3.1995 and allow him all financial and service

benefits. The second prayer is for a direction to the respondents to pay differential salary for the period when he was asked to discharge the duties of P.A. while he was a Grade-III Stenographer.

2. According to the applicant, he was appointed as Stenographer Grade-III on 7.6.1983. In course of his service he was transferred to the office of Superintending Engineer (Civil) Telecom, Civil Circle, Sambalpur and assigned the duties of Personal Assistant to Superintending Engineer (Civil) Telecom, Civil Circle, Sambalpur. The applicant has stated that the post of Personal Assistant is a post of Grade-II Stenographer and is filled up by way of promotion from Stenographer Grade-III. He has further stated that the post of Personal Assistant carries higher scale of pay and when he has been asked to discharge the duties of higher post he should be given the salary of that post. While the applicant was working in the post of Personal Assistant to Superintending Engineer (Civil) Telecom, Civil Circle, Sambalpur, a new post of Superintending Engineer (Electrical) Telecom Circle was created at Bhubaneswar with all supporting staff including the post of Personal Assistant to Superintending Engineer of that Circle at the level of Grade-II Stenographer. This order of creation of the post at Bhubaneswar is at Annexure-1. At that time the applicant was the seniormost Grade-III Stenographer. But he was not posted as Personal Assistant to Superintending Engineer (Electrical) Telecom Circle, Bhubaneswar, though he was eligible for the same. Instead of that an officiating arrangement was made and a person who is much junior to the applicant in the rank of Stenographer

Grade-III was deployed. Ultimately he was given promotion to the post of Stenographer Grade-III on 20.11.1997. The applicant has stated that the post of Superintending Engineer is Junior Administrative Grade post and he is entitled to Personal Assistant in the rank of Stenographer Grade-II. The applicant had represented on 12.6.1996 (Annexure-2) for his promotion as Personal Assistant in the newly created Telecom Circle at Bhubaneswar. But in spite of his series of representations this was not considered and that is why he has come up in this petition with the prayers referred to earlier.

3. The respondents have filed counter opposing the prayers of the applicant. They have stated that the applicant joined as Stenographer Grade-III on 7.6.1983 in Civil Wing of Department of Telecom. The staff of Civil Wing maintain separate identity. In the Department of Telecommunication the Civil Wing was integrated with Telecommunication Field Units with effect from 1.10.1986. The applicant had been recruited earlier to that. They have stated that the post of Superintending Engineer (Electrical), Bhubaneswar was created in December 1995. At that time the applicant was in the establishment of Sambalpur Civil Circle and he was discharging the duties of Stenographer Grade-III against the sanctioned post of Stenographer Grade-III. The respondents have stated that the applicant has no claim for higher remuneration for working as Personal Assistant because he was not posted against the sanctioned post of Personal Assistant as Stenographer Grade-II at Sambalpur. They have stated that the case of the applicant could not be considered for posting at Bhubaneswar because at that time

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he was working in the establishment of Superintending Engineer(Civil), Sambalpur. The post of Personal Assistant to Superintending Engineer(Electrical), Bhubaneswar, was filled up by deployment of other eligible candidate with effect from 30.5.1997 to 19.11.1997. The concerned official was a Stenographer Grade-III and was a recruit of Telecom Circle in 1987 and had joined on 6.4.1987. The applicant has been promoted to the rank of Personal Assistant with effect from 20.11.1997 consequent on retransfer of the post of Superintending Engineer (Electrical), Bhubaneswar. The respondents have stated that the post of Superintending Engineer is Junior Administrative Grade. But all the officers in Junior Administrative Grade are not attached with the post of Personal Assistant (Stenographer Grade-II). In the instant case the Superintending Engineer (Civil), Sambalpur, had been sanctioned with a post of Stenographer Grade-III and therefore the applicant was discharging the duties of Stenographer Grade-III. On the above grounds the respondents have opposed the prayers of the applicant.

J. Sam.

4. We have heard Shri P.K.Bhuyan, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents and have also perused the records. The learned counsel for the petitioner has filed written note of submission which has also been taken note of.

5. From the above recital of the pleadings of the parties it is clear that the facts in this case are not very much in dispute. The prayers of the applicant will have to be considered against the backdrop of the undisputed facts of this case.

6. The admitted position is that when the applicant was working as Stenographer Grade-III he was attached to Superintending Engineer (Civil) at Sambalpur. It is also a fact that the Superintending Engineers are entitled to Personal Assistant which is in the rank of Stenographer Grade-II. Because of this the applicant has asked for differential salary of the post of Personal Assistant, i.e., Stenographer Grade-II from the date he was attached to the Superintending Engineer (Civil), Sambalpur. The respondents have pointed out that all the Superintending Engineers have not been given Stenographers Grade-II and in the establishment of Superintending Engineer (Civil), Sambalpur the sanctioned post was of Grade-III Stenographer. The applicant has also enclosed along with the written note of submission his joining report in Telecom Civil Circle, Sambalpur on 27.3.1995 and this order clearly shows that he has joined as Stenographer Grade-III. As there is no post of Stenographer Grade-II attached to Superintending Engineer (Civil), Sambalpur and as the applicant has not been appointed even on ad hoc basis to any such post, just because he has worked with the Superintending Engineer he is not entitled to get the pay of Stenographer Grade-II. The learned counsel for the petitioner has relied on a decision of the Bench in OA No.421 of 1991, decided on 23.6.1994 (Benudhar Panda v. Union of India) and we have gone through this decision. That case related to Postal Department and in that case the Director-General, Posts, had ordered upgradation of the post of Stenographer Grade-III to that of Stenographer-II in respect of

officers in Junior Administrative Grade. But there was administrative delay in working out the order of the Director General, Posts and in consideration of that the promotion of the petitioner in that OA was dated back and he got the seniority and other benefits. Facts of that case are completely different from the facts of the present case. Here there is no order of the superior authority that the post of Stenographer attached to Superintending Engineer (Civil), Sambalpur, should be upgraded to that of Grade II Stenographer. In view of this, the decision of the Tribunal in OA No. 421/91 does not provide any support to the petitioner's case. In view of this, we hold that the applicant is not entitled to the pay of Stenographer Grade-II from the date of his joining under Superintending Engineer(Civil), Sambalpur. This prayer is accordingly rejected.

7. The second prayer of the applicant is for ante-dating his promotion from 20.11.1997 to 27.3.1995, the day he joined in Sambalpur Civil Circle. We have already held that as there was no post of Stenographer Grade-II in Sambalpur Civil Circle and he was not posted as Stenographer Grade-II, he is not entitled to get higher scale. The applicant was promoted on 20.11.1997. Prior to that another person, who is admittedly junior to the applicant, was deployed against the newly created post of Personal Assistant (Stenographer Grade-II) in the office of Superintending Engineer (Electrical), Bhubaneswar, from 30.5.1997 to 19.11.1997 for about six months. The applicant has not stated that the junior person so deployed was given promotion to the post of Personal Assistant and thus became senior to him.

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The respondents have also not stated whether the junior person who was so deployed from 30.5.1997 to 19.11.1997 got the pay of the higher post of Personal Assistant(Stenographer Grade-II). Even if the junior person officiated for about six months by way of local arrangement in the post of Personal Assistant (Stenographer Grade-II) the applicant has not stated that the junior official thereby became senior to him in the rank of Stenographer Grade-II. After the Circle was newly created some officiating arrangement has been made by the authorities for a temporary period and no fault can be found with them for this moreso because the applicant has not stated that thereby his seniority has been adversely affected. He has also not stated that the junior official got the benefit of the higher scale of pay. On this ground also therefore the applicant has no case for ante-dating his promotion.

8. In the result, therefore, the Original Application is held to be without any merit and is rejected. No costs.


(G.NARASIMHAM)

MEMBER(JUDICIAL)


(SOMNATH SOM)

29.9.2000
VICE-CHAIRMAN