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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK**

ORIGINAL APPLICATION NO.04 OF 1999
Cuttack this the 3rd day of July, 2006

**K.Ramesh...Applicant(s)
-VERSUS-
Union of India & Ors. Respondent(s)**

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No


(B.B.MISHRA)
MEMBER(ADMN.)


(B.PANIGRAHI)
CHAIRMAN

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CORAM:

**THE HON'BLE MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN
AND
THE HON'BLE MR.B.B.MISHRA, MEMBER(ADMINISTRATIVE)**

K.Ramesh, aged about 42 years, S/o. late K.Rajeswar Rao, at present working as Personal Assistant to the Chief Electrical Engineer, Railway Electrification, Bhubaneswar, At/PO-Chandrasekharpur, Bhubaneswar, Dist: Khurda

By the Advocates :

...Applicant
M/s.A.K.Mohapatra (I)
A.K.Das

-VERSUS-

1. Union of India represented through the General Manager, Eastern Railways, Fairlie Place, Calcutta-1, West Bengal
2. Divisional Railway Manager, Eastern Railways, At/PO-Asansol, Dist: Burdwar, West Bengal
3. Chief Project Manager, Railway Electrification, Ranchi, At/PO/Dist: Ranchi, Bihar
4. Chief Project Manager, Railway Electrification, Bhubaneswar, At/PO-Chandrasekharpur, Bhubaneswar, Dist-Khurda
5. Sarjoo Prasad, Father's name not known
6. Subrata Dutta -do-
7. P.C.Bhakat -do-
8. Swapan Kumar Paul-do-
9. B.S.Rao, -do-

Respondent Nos. 5 to 9 are working as Senior Stenographers, Office of Divisional Railway Manager, Eastern Railways, At/PO-Asansol, District-Burdwan, West Bengal

By the Advocates :

...
...Respondents
Mr.R.C.Rath

ORDER
(Oral)

MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN: This case has suffered from checkered history. The case of the applicant in brief is that

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he along with Respondent Nos. 5 to 9 were appointed as Junior Stenographers under the Respondent No.2 on 27.4.1983, 6.5.1983, 1.9.1987 and again 1.9.1987, 13.9.1984, and 30.10.1987 respectively. Although the applicant's appointment as Junior Stenographer was earlier than Respondent Nos. 5 to 9, but in the seniority list maintained by the Respondent-Railways, his name was placed at Sl. No.19, which is below Res.5 to 9. Therefore, he filed a representation before the Respondent-Railways for giving him due seniority above Respondent Nos. 5 to 9. But the Respondents in turn rejected his claim and reiterated their stand by giving him seniority only from 16.3.1992. Therefore, being aggrieved and affected by the order of the Respondent-authorities, the applicant had filed this case for the following relief:

"I) To quash the seniority list dated 22.10.1997 contained in Annexure-16 and order dated 12.11.1998 and 30.11.1998 contained in Annexures-10 and 2.

ii)To direct Respondent Nos. 1 and 2 to fix the seniority of the applicant above Respondent Nos. 5 to 9 as Senior Stenographer.

iii)To direct the Respondent Nos. 1 and 2 to grant all consequential financial and service benefits accruing thereon to the applicant.

iv)To pass any other appropriate order(s)/direction(s) as deemed fit and proper".

2. The Tribunal vide order dated 10.7.2003 decided this matter ex- parte and dismissed the applicant's prayer. Therefore, the applicant filed a Writ Petition bearing W.P.© No.12634/2004. The Hon'ble High Court vide order dated 11.7.2005 set aside the Tribunal's order and remitted back the case to the Tribunal to reconsider the applicant's case.

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3. Mr. Mohapatra, the learned counsel appearing for the applicant has submitted that the applicant was initially appointed as Typist on 27.4.1983 and was subsequently appointed as Junior Stenographer on 19.3.1985. Similarly Respondent No.5 was appointed as Junior Stenographer along with the applicant on the same date. But others, viz., Respondent Nos. 6, 7 and 9 were directly recruited as Junior Stenographers after they having qualified the Stenographic test @ 120 words per minute (in short w.p.m.). Respondent No.8 was brought on deputation and subsequently absorbed as Junior Stenographer. In the seniority list prepared as on 22.10.1997 (Annexure-16) it appears that the applicant's name figures at Sl. No.19 whereas the names of other private Respondents are above the applicant. Being aggrieved by such seniority list the applicant preferred a representation. But the Respondent-authorities had replied that since the applicant could not qualify in the eligibility test, therefore, he could not be regarded as Senior Stenographer above the private Respondent Nos. 5 to 9. When asked as to exactly from which date the applicant could qualify for having acquired the proficiency in Shorthand @ 100 to 120 w.p.m., Mr.Mohapatra could not satisfactorily reply to our query. But from the correspondence filed by the applicant it is found that the borrowing department though not conducted any specific speed test but the applicant was found suitable to take down dictation @ 100 w.p.m. in Shorthand. This letter was issued by the borrowing department on 5.3.1991. Be it noted here that the applicant although had appeared twice for the speed test in Shorthand but he could not qualify earlier. But since the borrowing authorities recommended the applicant's

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name for having taken down the test in Shorthand @ 100 w.p.m. on 5.3.1991, the Respondent-authorities had exempted him from further appearing at the said test and accepted the view of the borrowing department. But there being no post in the grade of Senior Stenographer available prior to 16.3.1992, the applicant was given seniority from the date when a post in the grade of Senior Stenographer was available, i.e., 16.3.1992. Mr.Mohapatra, the learned counsel for the applicant further contended that at least it should be assumed that the applicant had qualified in the proficiency test in Shorthand @ 100 w.p.m. with effect from the date when the borrowing department had so recommended/certified. In this background, we agree with the contention of Mr.Mohapatra to the effect that his seniority should have been reckoned from 5.3.1991. But since no post was available at that point of time with the ^{Lending} ~~borrowing~~ department, the applicant was given due promotion from 16.3.1992. It is understood that the applicant is still continuing in the borrowing department and working as Personal Assistant. Therefore, on his repatriation he shall be absorbed against the vacant post of Senior Stenographer in the parent department and in that event his seniority shall be reckoned on and from 5.3.1991.

4. Order accordingly.

5. With the above observation and direction, this O.A. is disposed of. No costs.

B.P.J.
(B.B.MISHRA)
MEMBER(ADMN.)

Panigrahi
(B.PANIGRAHI)
CHAIRMAN