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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 377 of 2000
Cuttack this the 06th day of August, 2004

Judhisthir Rout

.....

Applicant(s)

-VERSUS-

Union of India & Others

.....

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? 77


(M.R. MOHANTY)

MEMBER (JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN

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CORAM;

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

.....

Judhisthir Rout, aged about 40 years, S/o. Late Nilakantha Rout, Vill/PO.Jiral, Dist-Dhenkanal, at present working as Senior Ticket Collector, Jajpur-Keonjhar Road at present residing in Qr.No.E & T-26/D, Routray Colony, Jajpur-Keonjhar Road, Railway Station, At/PO.Jajpur-Keonjhar Road Railway Station, Dist-Jajpur.

.... Applicant

Advocate(s) for applicant

.... M/s. S.B.Jena, S.K.Das,
S.J.Nanda, S.Behera
and S.C.Mohapatra.

Versus-

1. Union of India, represented through General Manager, South Eastern Railway, Calcutta, Garden Beach, Calcutta-43.
2. Senior Divisional Personnel Officer, Khurda Road, At/PO.Jatani, Khurda (Dist.).
3. Divisional Railway Manager, South Eastern Railway, Khurda Road, At/PO.Jatani, Dist-Khurda.
4. Rabindranath Daschima Kabat, At present working as T.T.E. under Senior C.T.I., Khurda Road, At/PO.Jatani, South Eastern Railway, Dist-Khurda.

.... Respondent(s)

Advocate(s) for the Respondents Mr.S.R.Patnaik (R-1)

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O R D E RSHRI B.N.SOM, (VICE-CHAIRMAN)

Sri.Judhisthir Rout has filed this application assailing the provisional seniority list of Ticket Collectors as on 28.02.90 (Annexure-5) wherein he has been shown junior to one R.N.P.Kabat (Res.No.4). He has also assailed the letter dated 18/21.07.2000 (Annexure-2) issued by Assistant Personnel Officer rejecting his appeal dated 25.09.99 regarding wrong fixation of his seniority.

2. The brief facts of the case are as follows. The applicant started his career as Ticket Collector in Eastern Railway with effect from 01.03.86 whereas the Res.No.4 joined the same establishment on 03.07.84. Thus at the initial stage of recruitment and appointment, applicant was senior to Res.No.4. Then the applicant was transferred to Khurda Division on mutual exchange basis with Md.Inteyas and joined the said Division on 27.06.87. On the other hand, Res.No.4 was granted mutual exchange for transfer to Kurda Road Division with one H.B.N.Singh, and the Res.No.4 joined the Division on 03.08.87. The grievance of the applicant is that although in Eastern Railway, Res.No.4 was junior to him, after transfer to Khurda Division, the latter was given a higher position in the seniority list above the applicant. The applicant represented against this alleged arbitrary action of the Respondent's Railways

in response to which the Respondents vide letter dt. 18/21.07.2000 at Annexure-2 turned down his representation. Being aggrieved by this order of the Respondents, the applicant has now approached the Tribunal to declare him senior to Res.No.4 on the ground that he had rendered longer period of service than Res.No.4. He has also prayed for a direction to be issued to the Respondents to consider his case for promotion to the post of Senior Ticket Collector with effect from the date the Res.No.4 was promoted.

3. The Respondents by filing a detailed counter have repudiated the claim of the applicant. Their main contention is that the plea of the applicant is misconceived, as it was he who had asked for mutual exchange for transfer to Khurda Division with Mr. Inteyaz, whose date of appointment as Ticket Collector (Basic Grade) was 20.01.86 and his seniority position at Serial No.80 in the category of Ticket Collectors in that Division. On the other hand, Shri. Kabat, Res.No.4 had sought mutual exchange for transfer with Shri H.B.N. Singh, whose date of appointment as ticket collector was 21.01.86. His position in the seniority list was at serial No.77 in the grade of Ticket Collectors. In this regard they have referred to the provision of transfer on mutual exchange basis, Para 310 of Indian Railway Establishment Manual, volume 1, 1989, which lays down that railway servants transferred on mutual exchange from one cadre of a Division, Office or Railway, shall take the seniority on the basis of the date of promotion to the

grade or take the seniority of the Railway servants with whom they have exchanged whichever of the two may be lower. They have, therefore, submitted that this O.A. being devoid of merit is liable to be dismissed with costs.

4. We have heard the Learned Counsel for rival parties and perused the records placed before us.

5. We have perused Para 310 of IREM Volume 1. We find that in terms of the condition stated in that para for transfer on mutual exchange from one Railway to another, the applicant and the Res.No.4 were given the seniority position of the officials with whom they had arranged mutual exchange. It is not the case of the applicant that the official viz., Md.Imteyaz ^{does not} appear at serial no.80 of the seniority list of Ticket Collectors, Khurda ~~and~~ that of Shri H.B.N.Singh at serial No.77. Those being the facts of the case and as the applicant had asked for mutual exchange with Md.Imteyaz and his application for mutual exchange transfer could only be granted in terms of the provision of Para 310 of IREM/I, we see no scope for judicial intervention in this matter.

Accordingly this O.A. is dismissed being devoid of any merit. No costs.


(M.R. MOHANTY)

MEMBER (JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN