

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 631 OF 2000
Cuttack this the 31st day of March/2004

Rabindranath Kandi ... 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 ? *yes*

M.R. Mohanty
(M.R.MOHANTY) 31/03/2004
MEMBER (JUDICIAL)

B.N. Sompary
(B.N. SOMPARY)
VICE-CHAIRMAN

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CORAM:

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

Rabindranath Kandi, aged about 53 years,
S/o. late Bhabagraghi Kandi, Cable Splicer
In the Office of the Sub Divisional Engineer,
Optical Fibre Cable (Maintenance),
Telephone Bhawan, Berhampur

Petitioner

By the Advocates

M/s. S. Panigrahi
D. Panigrahi
A. Kanungo
N. R. Routray

-VERSUS-

1. Union of India represented by Secretary, Deptt. of Telecom Services, Sanchar Bhawan, New Delhi
2. Chief General Manager, Telecom, Orissa Circle, Bhubaneswar-751001
3. The General Manager, Telecommunication, Telecom District, Berhampur-760001
4. The Director, Maintenance, Eastern Telecom Region, Unit-8, Nayapalli, Orissa, Bhubaneswar-12
5. Subdivisional Engineer (HRD), Office of the General Manager, Telecom District, Berhampur-760001
6. Laxmidhar Sethi, aged about 55 years, S/o. not known, Cable Splicer, Office of the Subdivisional Engineer, Co-axial Maintenance, Bhadrak

Respondents

By the Advocates

Mr. S. B. Jena, A. S. C.

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O R D E R

MR. B.N. SOM, VICE-CHAIRMAN: This Original Application has been filed by Shri Rabindranath Kandi (applicant) working as Cable Splicer in the Office of Sub-divisional Engineer, Optical Fibre Cable (Maintenance), Berhampur to issue direction to Respondents-Department to step up his pay

at par with his junior (Res.No.6) with consequential financial benefits from the year 1976.

2. The case of the applicant in short is that one Laxmidhar Sethi who is also working in the grade of Cable Splicer in the Office of the Sub-divisional Engineer, Casual Maintenance, Berhampur, although junior to him in the official grade lineman (the applicant having joined the Department on 22.10.1966 whereas Laxmain Sethi on 29.12.1966) is in receipt of higher pay than him. He has further submitted that he is senior to Shri Sethi in the gradation list published by the D.E.T., Berhampur in July, 1998, his Sl.No. being 6 vis-a-vis Shri Sethi at Sl.No. 8. It is his further case that both of them had been sent on deputation as Cable Splicer on 1.9.1973, but he was repatriated back to the parent cadre of lineman on 29.2.1976 whereas Shri Sethi continued in the cadre of Cable Splicer, Office of the Sub-Divisional Engineer, Co-axial Maintenance, Bhadrak. It is in this background, he has approached this Tribunal with the prayers referred to above.

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

4. This is the 2nd round of litigation made by the applicant. In the 1st round of litigation in O.A.412/90 the applicant had claimed regularisation of his service as Cable Jointer between 26.2.1976 and 9.12.1980 and to sanction all financial and service benefits following such regularisation. That O.A. after being heard on merit was disposed of by this Tribunal with the following

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directions.

- "a) the deputation of Shri Rabindranath Kandy Lineman, Berhampur Engineering Postal Division, to the Coaxial Project as Cable Jointer was in the nature of an adhoc assignment;
- b) the recall of the petitioner from the Coaxial Project was quite in order, necessitated as it was by the altered or altering requirements of the Department;
- c) his subsequent appointment as Cable-Jointer/ Splicer in 1980 was wholly in accordance with rules and in keeping with his seniority.
- d) he is not entitled to count the period spent on deputation for reckoning his seniority in the post of Cable Jointer; and
- e) there is no need or justification to quash any order, decisions or communication passed, made or conveyed by any of the respondents".

5. In this O.A., as earlier stated, the applicant is seeking stepping up pay on the ground that Res.No.6 who is his junior in the official grade of lineman is higher getting/salary with effect from 1.9.1980. The Respondents-Department have submitted that the present O.A. is not maintainable on the principle of resjudicata.

6. We have carefully considered the prayer of the applicant for stepping up/pay and also the issues decided by this Tribunal in the earlier O.A.(O.A.No.412/90) and we are satisfied that the issue involved in the present O.A. had already been dealt by the Tribunal earlier. However, the short question for answer in this O.A. is whether the applicant is entitled to stepping up of pay as prayed for by him. Our answer is in the negative, because, Res.No.6 is in receipt of higher pay than the applicant in a post which he is holding on deputation basis and not in a post held by him in the hierarchy of promotion in

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the basic cadre of lineman in Berhampur Division. Apart from this, the principle of stepping up of pay is applicable when a junior gets higher pay than his senior because of fixation of pay under Rule-FR 22(I)(a)1 on promotion and this being not the issue in the instant O.A., we see no merit and therefore, the O.A. fails. No costs.

M.R. Mohanty
(M.R. MOHANTY)
31/03/04
MEMBER (JUDICIAL)

B.N. Sasmal
(B.N. SASMAL)
VICE-CHAIRMAN

BJY