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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.103 OF 2001

Cuttack, this the 27th day of Feb. 2003

Ratnakar Das

.....

Applicant

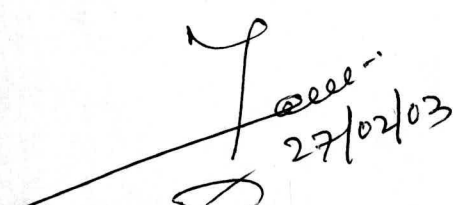
Vrs.

Union of India & Others

Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ? no
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? yes


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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CORAM:

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

Shri Ratnakar Das, aged about 46 years, S/o Late Tauli Das, working as Junior Technical Officer, Gr.I (Radio), Aviation Research Centre, At/Po-Charbatia-754028, Dist- Cuttack (Orissa)

.....Applicant

By the Advocate(s) M/s. Ashok Misra,
H.P. Rath.

Vrs.

1. Union of India, represented by the Cabinet Secretary, South Block (Cabinet Sectt.), New Delhi.
2. The Director, Aviation Research Centre, D.G. (S), East Block-V, R.K. Puram, New Delhi-110066.
3. Deputy Director (Admn.), Air Wing, Aviation Research Centre, D.G. (S), East Block-V, R.K. Puram, New Delhi-66
4. Deputy Director (Admn.), Aviation Research Centre, D.G.(S), At/Po-Charbatia, Dist-Cuttack-28 (Orissa)
5. Sri S.B. Pillai, J.T.O.I (Radio), C/o-Chief Engineer, Aviation Research Centre, D.G.(S), East Block-V, R.K. Puram, New Delhi-66.
6. Shri B.K. Mohapatra, J.T.O.-I (Radio), C/o-Chief Engineer, Aviation Research Centre, D.G.(S), East Block-V, R.K. Puram, New Delhi-66.

By the Advocate(s) -

..... Respondent(s)
Mr. A.K. Bose,
(Sr. A.S.C)

O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

Shri Ratnakar Das, has filed this Original Application seeking the

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following reliefs:

1. Necessary direction be given to recast the seniority list by bringing the applicant at Sl. No.4 and accordingly to consider the case of the applicant by the D.P.C. for promotion to the post of A.T.O. (Radio) and not to consider respondent Nos. 5 & 6 for the same.
2. Any other relief or reliefs be granted as would be proper under the facts and circumstances of the case.

3. The facts of the case are that the applicant was recruited on re-employment as JTO Grade-II (Radio) in the Aviation Research Centre, Charbatia, Cuttack on 08.01.1999. The Applicant submits that he had undergone special training on different aircrafts in the new organization from September, 1991 to January 1996 and that he is associated with Radio Lab servicing of various air borne Radio/Navigational equipments as well as ground communication equipments. He has alleged that the Respondents had made appointments on reemployment in the grade of J.T.O Grade-II from September, 1986; while there existed no Recruitment Rule for the said post. Although the Recruitment Rules published in 1991 provide that only Radio(Fitter) to be appointed to the post of JTO Grade-II (Radio) the following officials were recruited as JTO Grade-II (Radio):-

1. Sh. S.B. Pillai
2. Sh. B.K. Mohapatra
3. Sh. S.P. Pattnaik
4. Sh. P. Bhowmik
5. Sh. S.P. Dwibedi

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4. In view of the said position he stated that as those individuals did not possess the requisite qualification as per Recruitment Rules he should rank senior to all of them. He had also made similar representations to Respondent No.1 to 4 but he did not get any justice from there and therefore he has approached this Tribunal for redressal of his grievance.

5. The Respondents by submitting rejoinder have refuted the allegations made by the applicant. They have denied that the applicant could be treated senior to the Respondent No. 5 & 6. They further stated that Respondents No. 5 & 6 were appointed to the post of JTO Grade-II (Radio) in ARC on reemployment on 04.04.1989 and 02.05.1989 respectively, after having been duly selected by a Board of Officers appointed by the Department. They have stated that the applicant was considered for selection subsequently in September, 1989 by another Board of Officers and was appointed to the post in January 1991. They further averred that all these appointments were made prior to coming into force of Recruitment Rules for the post of JTO Grade-II (Radio). They have therefore argued that those appointments do not come under the purview of the Recruitment Rules notified on 10.07.1991. They have further stated that for promotion of the officials including the applicant from JTO Grade-II to JTO Grade -I was done in terms of the provisions of Recruitment

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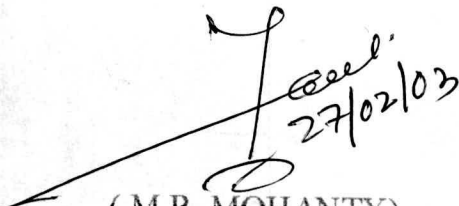
Rules 1991, as a result of which the applicant along with Shri S.B. Pillai and Shri B.K. Mohapatra were promoted and the others, like, S/s S.P. Pattnaik, P. Bhowmik and S.P. Dwibedi although senior to the applicant in Grade-II were not considered for promotion in the same Board, as they did not pass the departmental promotion examination and therefore they become junior to him in the seniority list of JTO Grade-I.

6. We have also heard Mr. Ashok Misra, Ld. Counsel for the applicant and Shri A.K. Bose, Sr. Central Govt. Standing Counsel for the Respondents. We have perused the records placed before us including the Recruitment Rules notified in the year 1977 and those notified in 1991.

7. From the facts and circumstances of the case and on perusal of the records it is clear that the applicant was recruited on reemployment to JTO Grade-II in 1991 whereas the Respondents No.5 & 6 were recruited in the year 1989. It is also seen that the applicant as well as the Respondents No.5 & 6 were recruited by virtue of executive instructions governing the recruitment to the post of JTO Grade-II prior to the promulgation of Recruitment Rules in 1991. It is also admitted that recruitment to the Grade of JTO Grade-I

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and above have been done according to the provisions of the
Recruitment Rules in force.

8. In view of these facts and circumstances of the case the
Original Application is not sustainable and is rejected being devoid of
any merit. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar