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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 31 of 2001
Cuttack, this the 18th day of October, 2004

G. JAYA.

....

APPLICANT.

-Vrs.-

UNION OF INDIA & ORS.

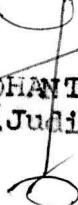
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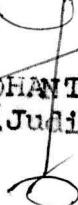
RESPONDENTS.

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? Yes


(B.N. SOM)
Vice-Chairman


(M.R. MOHANTY)
Member (Judicial)


Mohanty
18/10/04

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 31 OF 2001
Cuttack, this the 18th day of October, 2004.

C O R A M:-

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

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GEEDAM JAYA,
Aged about 53 years,
S/o. G. Pothu Raju,
At/Po: D.No. 39-4-24,
Murali Nagar,
Dist. Visakapatnam-7(A.P.),
At present working as
Deputy Chief Engineer
(Co-ordination/Construction),
South Eastern Railways,
Chandrasekharpur,
Bhubaneswar,
Dist. Khurda

.....

Applicant.

By legal practitioner: M/s. P. K. Chand,
D. Satpathy,
S. Mishra,
J. K. Tripathy,
Advocates.

-Versus-

1. Government of India,
Ministry of Railways,
(the Railway Board),
Rail Bhawan,
New Delhi
represented through its Chairman.
2. The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-(WB).


3. Member-Engineer, Railway Board,
Rail Bhawan, New Delhi-1.

.... Respondents.

By legal practitioner: Mr. B. Pal, Sr. Counsel

and

Mr. C. R. Mishra, Addl. Counsel.

for the Railways.

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Non-selection of the Applicant for the post of Senior Administrative Grade etc. (though he claims to be eligible, qualified and fulfilled all norms required for the said promotion) successively during 1995 to 2000 and rejection of his grievances (on 23-10-1997) is the subject matter of this Original Application under Sec. 19 of the Administrative Tribunals Act, 1985.

2. It is the case of the Applicant that he got his last promotion to selection grade (from Junior Administrative grade) retrospectively w.e.f.

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01-01-1990 and, therefore, he was eligible for the next promotion (to the next higher grade) in the year 1995. It is also the case of the Applicant that he has not been given promotion, deliberately, by the Respondents (in six successive chances, starting from the year 1995 till 2000) on the pretext that CBI people have filed Crl. case against him (Applicant) under Prevention of Corruption Act, 1988 (for alleged possession of disproportionate assets) and that, even though he was honourably acquitted of the charges in the said case on 31-03-1997, it was intimated to him that his claims were considered for empanelment to Senior Administrative Grade on various occasions but he was not selected. It is his further case that he, legitimately, expected that even though his performance for five years preceding to 1995 was unblemished and upto mark, he was not given promotion due to some ulterior motive and, therefore, by holding such action of the Respondents to be illegal/arbitrary, necessary directions ought to be issued to the Respondents to promote the Applicant to the said grade (w.e.f. 31-03-1995 with all consequential service benefits) after quashing the order of rejection that was

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issued under Annexure-12.

3. By filing counter, the Respondents have pointed out that this Original Application is bad being grossly barred by limitation in terms of Section-21 of the Administrative Tribunals Act, 1985. On merits, it has been disclosed by the Respondents, in their counter that, on the basis of the report of the C.B.I. with regard to possession of disproportionate Assets, the Applicant was placed under suspension w.e.f. 03-08-1994 and, that, however he was placed in the selection grade (vide orders dated 22-07-1991) w.e.f. 1-1-1990 and that though his case was considered for empanelment for Senior Administrative grade, as the Applicant was under suspension due to Crl./ Departmental proceedings, his case was kept in a sealed cover. It has been disclosed by the Respondents that the case of Applicant was considered for empanelment for Senior Administrative grade during 25-03-1995, 12-08-1995, 31-10-1996 and 31-08-1997; but the findings of the D.P.Cs were kept in a sealed cover as Crl. case (as well as Departmental proceedings) were pending as against

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him and that, however, on being acquitted, the said sealed cover was opened and it was found that the Applicant was found 'NOT FIT' (to be empanelled for Senior Administrative Grade) in all these four Senior Administrative Grade panels and that, therefore, his case was considered, again, in the next two Senior Administrative grades/IRSE panels approved on 15-01-1999 and 11-10-2000. But the Applicant was not selected on the basis of his performance and, therefore, the Respondents denied the apprehension of Applicant (that due to pendency of the CBI/Vigilance case) he could not be promoted to Senior Administrative Grade.

4. Applicant also filed rejoinder and written note of submissions, which have been taken note of in course of hearing, given to learned counsel appearing for the Applicant and Learned Counsel appearing for the Railways/ Respondents and perused the materials placed on record.

5. Applicant, by filing notes of argument, virtually, drives us to consider the gradings given in the CCRs of the Applicant and the

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findings of the Departmental Promotion Committee; which had taken into consideration the said gradings in the CCRs of the Applicant. It was submitted on behalf of the Applicant that since he was graded below the Bench-mark, he ought to have been confronted with the same(before giving him lower Bench mark) and in absence of that the said gradings (as given to the Applicant by the D.P.C.) is not sustainable and that, basing on such gradings, the findings arrived at by the DPC is also not sustainable. It has further been submitted that even though punishments were in force, against some of the juniors of the Applicant, they were promoted to the grade of Senior Administrative; but the case of the Applicant was not recommended; which is highly illegal and needs to be interfered with. In this connection, learned counsel for the Applicant has also cited judge-made-laws and we have taken note of the same.

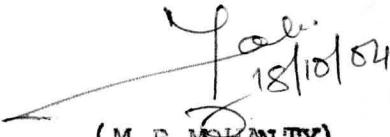
6. At the outset, it is to be noted that law is well settled that the Courts/Tribunals; being not the Appellate Authorities, cannot sit over the decisions of the Departmental Promotion Committees.



The Applicant has not made out a case that even persons having less grading in their CCRs have been preferred over him. On perusal of the records, it is seen that the Respondents have acted as per the Rules in considering various officers for promotion to the grade of Senior Administrative and did not find him suitable for recommendation and, being not the Appellate Authority, we are not inclined to interfere with such action of the DPC. However, it is seen that the Applicant, though urged bald allegations of bias and mala-fide, did not make the members of the DPC as party to this Original Application. That apart, though the order of rejection was made sometime in 1997, he has only approached this Tribunal on 1-1-2001 i.e. beyond the period of limitation of one year. Furthermore, he has not made the Juniors (who are stated to have superseded him in the matter of promotion) as Respondents/Parties to this case and in absence of them no orders can be passed affecting their interest in any manner.

7. In the above view of the matter, we find no merit in this Original Application; which is accordingly dismissed. No costs.


(B.N. SOM)
VICE-CHAIRMAN


18/10/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)