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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


Original Application No.385 of 2003
Cuttack, this the 26th day of June, 2007.

V.Venugopal Rao ... Applicant
Versus
Union of India & Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?

(N.D.RAGHAVAN)
VICE-CHAIRMAN


(B.B.MISHRA)
MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

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C O R A M:

THE HON'BLE MR. N.D.RAGHAVAN, VICE-CHAIRMAN
AND
THE HON'BLE MR.B.B.MISHRA, MEMBER (A)

V.Venugopal Rao, aged about 50 years, son of Surya Rao, presently working as Senior Clerk in the office of Deputy Chief Engineer (C) E. Co. Railways, Sambalpur Divison, At/Po/Dist. Sambalpur.

..... Applicant.

By legal practitioner: M/S.P.K.Mohapatra, S. Nath,
Advocates.

-Versus-

1. Union of India represented through General Manager, E.Co.Railways, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Administrative Officer (C), E.CO.Railways, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Chief Personnel Officer, E. Co. Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. Deputy Chief Personnel Officer (Con.), E. Co. Railway, Bhubaneswar, Dist. Khurda.
5. Chief Engineer (Con.), E.Co. Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
6. Deputy Chief Engineer (Con.), E.CO. Railway, Sambalpur.

...Respondents.

By legal practitioner: Mr. P.C.Panda, Advocate.

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ORDER

MR.B.B.MISHRA, MEMBER(A):

In a nut shell, according to the Applicant, he started his service as a Khalasi on casual basis in the Open Line of the erstwhile South Eastern Railways and posted under the IOW, Koraput with effect from 16.09.1971 continued as such till 15.05.1972. Thereafter, again he was engaged on 16.04.1973 and while continuing as such, the benefits of CPC scale was extended to him on 16.01.1974. He was regularized as Khalasi in the Open Line of the erstwhile South Eastern Railways vide Annexure-1 dated 18.07.1987.

2. While he was continuing in the Open Line, on 07.08.1986 he was brought over to the Construction Wing of the erstwhile South Eastern Railways and was posted under the Deputy Chief Engineer (Constructon), Koraput vide order dated 29.07.1986 of the Divisional Railway Manager (P) Waltair. According to Applicant, on 03.12.1986 he was promoted to the post of Junior Typist and again on 02.08.1990 he was promoted to the post of Sr. Clerk and thereafter promoted to the post of Head Clerk with effect from 04.09.1992 vide orders dated 03.08.1990 and 16.09.1992 under Annexures-3&4. While the applicant was continuing in the post of Head Clerk, a circular was issued on 13.12.1999 by the Chief Personnel Officer, South Eastern Railway, Garden Reach, in which it was directed

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that more than one ad-hoc promotion may not be made and whenever ad-hoc promotions are found inescapable in the exigency of service, the same shall be ordered only for short duration up to four months from amongst the senior-most eligible staff strictly in accordance with the existing guidelines under the Indian Railway Establishment Manual. Accordingly, the Applicant was reverted from the post of Head clerk vide order dated 13.11.2000 under Annexure-5. Being aggrieved by the said order of reversion he approached this Tribunal in OA No. 320 of 2000. The aforesaid OA was heard along with other matters filed by similarly situated employees. This Tribunal in common order dated 21.03.2002 disposed of those cases in holding so far as OA No. 320 of 2000 is concerned, as under:

"It is the well settled position of law by now that "once ad-hoc; always ad-hoc" and "continuance on Ad-hoc basis for a very long time do not, per se, makes one regular".. On the face of this settled/position of law, no direction can be issued to the Respondents compelling them to regularize the Applicants in promotional posts in Construction Organization of Railways. However, the Respondents, in the peculiar circumstances in which the applicants are placed, can always give considerations to the grievances of the categories of their employees (like the Applicants) and to explore the possibilities of drawing a policy decision to suitably absorb such categories of employees who are continuing for long years in promotional posts in construction organization being brought from Open-line establishment."

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3. But so far as Applicants in OA Nos. 509 and 603 of 2001 were concerned, this Tribunal quashed the order of reversion being contrary to the Rules which was challenged by the Respondents before the Hon'ble High Court of Orissa in OJC Nos. 5477 of 2002 and 5459 of 2002.

4. After the orders of this Tribunal, on 26.12.2002, the Applicant submitted representation praying for extension of the benefits of the following observations made by this Tribunal in order dated 21.03.2002 in O.A.Nos. 509 and 603 of 2001:

“in the case of open line staff, who are empanelled as Jr. Clerks against the ‘PCR’ posts of the construction organization and automatically lost their lien in the open line especially when they were not even considered for being called to face departmental tests/not considered for promotion in Open Line Organization.”

The said request of applicant was rejected by the Respondents on 10.02.2003 under Annexure-10. Hence, by filing this OA he seeks direction to extend the benefits of the order dated 21.03.2002, passed in OA Nos. 509 and 603 of 2001.

5. Respondents have filed their counter opposing the stand taken in the OA to which the Applicant has also filed rejoinder.

6. Having heard the Learned Counsel for both sides we went through the materials placed on record.

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7. As it appears, all the promotions of the Applicant were on ad-hoc basis. Also it appears that the Tribunal was not inclined to quash the order of reversion of the Applicant relying on the orders of this Tribunal dated 12.10.2001 in OA No. 513/2000 (**Chintamani Mohanty and Others v. Union of India and Others**), order dated 01.10.2001 of the Principal Bench of the Tribunal passed in OA No.1289 of 2001(**Kanhaiya Prasad and others vs. Union of India and others**) and the decision reported in 1999 (2) CAT 185-**Kamal Kumar v. Union of India and others**.

8. Although opportunity was available to the Applicant to come with full facts in earlier OA, he has chosen not to do so. This was because of his laches and, therefore, he cannot re-agitate claims which he had not pursued at the first instance. He having been satisfied with the orders of this Tribunal, cannot now claim that the benefits given to the Applicants in OA Nos. 509 and 603 of 2001 should be extended to him. Therefore, he is not entitled to the benefit granted to the applicants in OA Nos. 509 and 603 of 2001 the same being granted on the basis of the facts and law advanced by them in earlier occasion. In case the prayer of Applicant is allowed it would tantamount to sitting on appeal over the final orders passed by another Division Bench of this Tribunal.

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9. In the light of the discussions made above, we find no merit in his OA which stands dismissed. There shall be no order as to costs.


(N.D. RAGHAVAN)
VICE-CHAIRMAN


(B.B. MISHRA)
MEMBER(A)

