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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**O.A. NO. 408 OF 2003
Cuttack, this the 10th day of November, 2005.**

SRIKANTA RATH

APPLICANT

VERSUS

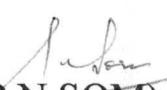
UNION OF INDIA & ORS.

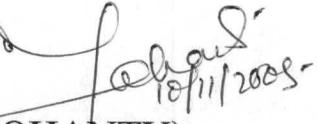
RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No

1. Whether it be circulated to all the Benches of CAT? No


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**ORIGINAL APPLICATION NO. 408 OF 2003
Cuttack, this the 10th day of November, 2005**

C O R A M:-

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

SRI KANTA RATH, aged about 38 years,
Son of Nalini Kanta Rath,
Bada Brahmin Sahi,
At/Po: Digapahandi,
Dist.Ganjam,
At present working as Post Graduate Teacher(Physics) in
Jawahar Navodaya Vidyalaya,
At/PO: Hadagarh, Dist. Keonjhar. APPLICANT.

By legal practitioner: Ms. Prasanta Kumar Panda, Advocate.

VERSUS

1. Commissioner, Navodaya Vidyalaya Samiti,
Indira Gandhi Stadium, I.P.Estate, New Delhi.
2. The Deputy Director (Personal),
Navodaya Vidyalaya Samiti,
Indira Gandhi Stadium,
I.P.Estate, New Delhi.
3. The Deputy Director,



Navodaya Vidyalaya Samiti,
Regional Office, 160, Zone-II,
M.P.Nagar,Bhopal,
MADHYA PRADESH.

..... RESPONDENTS.

By legal practitioner: Mr.A.K.Bose, Advocate.

O R D E R

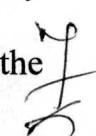
MR.M.R.MOHANTY, MEMBER (JUDICIAL):-

Having not been granted promotion as Vice-Principal and being aggrieved by the promotion given to his alleged juniors under Annexure-4 dated 09-05-2003, the Applicant, a Post Graduate Teacher in physics of Jawaharlal Navodaya Vidyalaya has filed this Original Application, on 21-06-2005, under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:-

- I. Issue necessary direction directing the Respondents to correct the seniority of the Applicant and assign him the same taking into consideration the date of joining as Post Graduate Teacher;
- II. Issue necessary direction directing the Respondents to consider the case of the Applicant for promotion to the post of Vice-Principal from the date his juniors have been promoted;
- III. Issue necessary direction directing the Respondents to pay all consequential service benefits".



2. In essence, the grievance of the Applicant is that, although he joined the services as PGT on 13.08.1991; others, who joined services as such in the Navodaya Vidyalaya in the grade of PGT much after him, were not only shown as senior to him (Applicant) but they were given superseding promotion as Vice-Principal. The further grievance of the Applicant is that although he made several representations challenging his placement in the gradation list and grant of promotions to his juniors, the same did not receive due consideration and, thereby, great injustice has been caused to him and that, in the said premises, he has approached this Tribunal in the present Original Application.

3. Respondents have filed a counter stating therein that, as per the Rules, a tentative seniority list was drawn placing the names of the Applicant and similarly placed others at appropriate place, by taking into consideration the respective merit position in the select list drawn at recruitment stage and that, after considering the representations offered by the aggrieved teachers, the said tentative seniority list was made final and circulated to all concerned on 22.12.1995. Respondents have submitted that according to the placement made in the said final seniority list and availability of vacancies, promotions were given to the post of Vice-Principal and, while effecting such promotion, due care and caution was taken to ensure that there are no super session and in fact no body were superseded while giving the promotion, in question and that the 

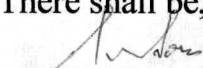
grievance that the Applicant was superseded in the matter of promotion has been branded by the Respondents as nothing but an out come of conjecture and surmises.

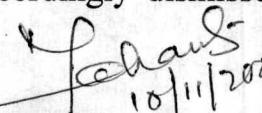
4. We have heard Mr. Prasanta Kumar Panda, learned counsel appearing for the Applicant and Mr. Anup K. Bose, learned counsel appearing for the Respondents and perused the materials placed on record including the guidelines issued by the JNVS with regard to fixation of seniority among the teachers.

5. Having considered the materials placed on record and submissions made by the parties, it is seen that the Applicant, virtually, has sought for a direction to change his position in the final seniority list published as far back as on 22.12.1995; which is against the settled principles of law (propounded by Their Lordships of the **Hon'ble Supreme Court of India** in the case of Directly Recruited Class II Engineering Service Members - reported in AIR 1990 SC 1067) that a *settled thing should not be unsettled after a long lapse of time.* Applicant never challenged the said seniority list, neither in this Original Application nor there before. He remained satisfied with the position assigned to him in the seniority list published on 22.12.1995. He has also not made the persons who are likely to be affected in the event of change of positions in the seniority list, as parties to this O.A. It is not the case of the Applicant that any person/teacher below him, in the merit list drawn

at the time of his recruitment, has been promoted to the post of Vice-Principal. We also find that the Teachers, who were given promotion to the post of Vice-Principal, are all placed above the Applicant in the final seniority list published on 22.12.1995. Although the Applicant has felt aggrieved by the promotion of some of his so called juniors, he has neither specifically challenged the said order of promotion dated 09-05-2003 in this OA nor made them parties in this case. In absence of that, no relief can be granted to the Applicant. In view of what has been discussed above, we find no merit in this O.A. which is accordingly dismissed.

There shall be, however, no order as to costs.


(B.N.SOM)
VICE-CHAIRMAN


10/11/2005
(M.R.MOHANTY)
MEMBER(JUDICIAL)