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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.NO.591 OF 2003

Cuttack, this the 13th day of May, 2005

Mr.Charu Chandra Das Applicant

Vrs.

Union of India and others 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

13/05/05
(M.R.MOHANTY)
JUDICIAL MEMBER

(B.N.SOM)
VICE-CHAIRMAN

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH**

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CORAM:

**HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND**

HON'BLE SHRI M.R.MOHANTY, JUDICIAL MEMBER

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Mr.Charu Chandra Das, son of late Ananda Chandra Das, aged about 60 years, working as Assistant Project Officer, Orissa State Social Welfare Advisory Board, A/64, Nayapalli, Bhubaneswar 751 012, residing at IVC 6/3, Unit III, Kharvela Nagar, P.O/PS/Tahasil/Munsifi/Municipal Corporation/City-Bhubaneswar, Dist. Khurda.

..... Applicant

Advocates for the applicant- M/s.Dr.V.Prithvi Raj & S.Jena.

Versus

1. Union of India, represented through its Secretary to Government of India, Ministry of Human Resource Development, Department of Women & Child Development, Shastri Bhawan, New Delhi 110 001.
2. Central Social Welfare Board, through Executive Director, Samaj Kalyan Bhawan, B-12, Qutub Institutional Area, South of I.I.T., New Delhi 110 016.
3. The Chairperson, Orissa State Social Welfare Advisory Board, A/64, Nayapalli, Bhubaneswar 751 012.

..... Respondents

Advocates for the Respondents- Mr. S.K.Patra, ACGSC

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

The applicant Shri Charu Chandra Das, who is presently working as Assistant Project Officer, Orissa State Social Welfare Advisory Board, has filed this Original Application, being aggrieved by the inaction of the Respondents in granting him promotion to the post of Assistant Project Officer with effect from 16.11.1990 or with effect from July 1991 on completion of three years tenure in North Eastern Region, Assam, as per the Office Memorandums dated 14.12.1983 and 1.12.1988 (Annexures 1 and 2).

2. The case of the applicant is that being attracted by the incentives offered by the Government of India as contained in their Office Memorandums (Annexures 1 and 2), he accepted a posting as Welfare Officer to Gauhati which was ordered by Respondent No.2 by his Office Order dated 8.4.1986. Among the various incentives offered by the Central Government to its employees to come on posting to North East, it was laid down that on satisfactory

performance of duties for the prescribed tenure in the North East the official should be given due recognition in the matter of promotion in the cadre posts. In spite of this assurance, the applicant's grievance is that a meeting of the Departmental Promotion Committee was held for promotion to the post of Assistant Project Officer in July 1991, but his case was not considered. Similarly, in 1993 also another DPC meeting was convened for promotion, but his case was not favourably considered. It was only on 4.5.1998 that he was given promotion to the grade of Assistant Project Officer. It has been submitted by the applicant that the Respondents have denied him the benefit of the incentives thus subjecting him to financial hardship and harassment.

3. The Respondents have submitted that the Original Application is without any merit. They have, however, admitted that there was a DPC meeting in the year 1993 for preparing a select list for promotion to the grade of Assistant Project Officer and the applicant was one of the eligible candidates. His case was considered by the D.P.C. , but he

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was not empanelled by the DPC on the basis of performance as reflected in the available aCRs for the past five years. They have admitted that he was subsequently promoted to the said post with effect from 4.5.1998. They have denied that he was due for promotion after completing three years in the post in North-East as per the North-East Incentives Scheme. They have further submitted that the applicant had represented to the authorities and he was, in reply, informed that the O.M. dated 14.12.1983 issued by the Ministry of Finance, Department of Expenditure, was recommendatory in nature and there was no case of out of turn promotion involved. They have further submitted that the applicant's grievance had already been suitably replied to in 1994 and therefore, the O.A. filed in 2003 is barred by limitation under the A.T.Act, 1985.

4. The applicant has filed a rejoinder. In the rejoinder he reiterated that it is not true that the Respondents have extended the full benefits as contained in the North-East Incentives Scheme in that he had not been given any

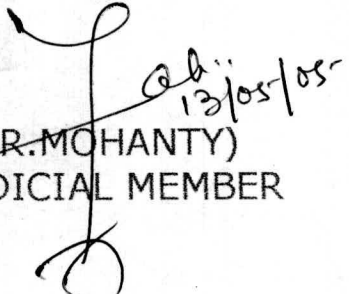
weightage in the matter of promotion. He also repeatedly canvassed before us that the proceedings of the DPC may be referred to see whether the incentives in the matter of promotion have been kept in view by the DPC.


5. We have heard the learned counsels for both the parties and have perused the records placed before us.

6. Having heard the rival parties and having taken note of the repeated averments made by the learned counsel for the applicant that had the DPC given him due weightage for his service in the North-East he could not have been denied promotion in the year 1993, we called for the minutes of the DPC. The perusal of the DPC minutes reveals that the ACRs for five years in respect of the applicant were not placed before the D.P.C. because his ACRs for the years 1990-91 and 1991-92 were not available. Secondly, the panel made consisted of 18 officers whereas the number of vacancies under the promotion quota was reported to be five. We also noticed that in respect of another officer whose name appears at sl. No.1 of the officers in the zone of

consideration, the DPC did not assess his merit for promotion as his ACRs for two years were not available in the CR Folder. From this it is clear that the DPC meeting was not held following the procedure as laid down with regard to calculation of vacancies, determination of the size of the panel, and assessment of the confidential reports of the officers in respect of whom CRs for certain years are found missing. In the circumstances, we have no hesitation to hold that the DPC proceedings of the year 1993 deserve to be quashed and a review DPC should be convened to re-draw the select list by strictly following the procedure as laid down in Government of India, Department of Personnel & Training, O.M.No.22011/5/86-Estt.(D), dated 10.4.1989, as amended by O.M. No.22011/5/91-Estt.(D), dated 27.3.1997.

7. With the above observation and direction, the Original Application is disposed of . No costs.


(M.R. MOHANTY)
JUDICIAL MEMBER


(B.N. SOM)
VICE-CHAIRMAN