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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 672 OF 2003
CUTTACK, THIS THE 27th DAY OF JULY, 2005

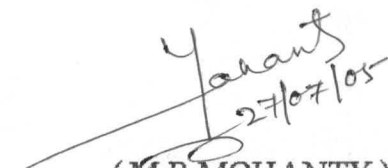
Udayanath Mishra APPLICANT

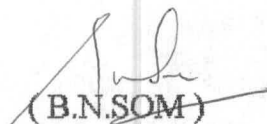
VS

Union of India & Others RESPONDENTS

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 672 OF 2003
CUTTACK, THIS THE 27th DAY OF JULY, 2005

CORAM :

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

Shri Udayanath Mishra, Aged about 65 years, S/o. Late Bhikari Charan Mishra, At : Patharadi Road, P.O. Champa, Dist. Bhadrak, retired Station Superintendent, South Eastern Railway, Bhadrak.

..... Applicant

Advocate(s) for the Applicant - M/s D.P.Dhalsamant.,

VERSUS

1. Union of India, represented through its General Manager, South Eastern Railway, Garden Reach, Kolkata-43.
2. Union of India, represented through its General Manager, East Coast Rly., Rail Bhawan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-43.
4. Divisional Railway Manager, East Coast Railway, Khurda Road, Jatni, Khurda.

.....Respondents

Advocate(s) for the Respondents - M/s. S.K.Ojha, H.M.Das(R-1&4)
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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN:

The applicant, Shri Udayanath Mishra, a retired Station Superintendent, South East Railways, has approached this Tribunal in this O.A. seeking direction that his case also be disposed of by the Respondents following the ratio of our order in O.A. No. 83/96 dated 23.5.03 as he is similarly placed retired Railway servant.

2. We have heard the Ld. Counsel for both the parties and have perused the records placed before us.

3. As the applicant has prayed for a direction to the Respondents to be issued to give him promotional benefits as per our order contained in O.A. 83/96, it would suffice if we refer to our decision in the said O.A., which is as follows:

“The applicant has filed this O.A. before the Tribunal on 1.2.96, i.e., after the issue of letter dated 12.1.96 (as referred above) by the C.P.O. It is also not clear either in the application or otherwise from the submissions made by the learned counsel as to what extra benefit the applicant would have been entitled to had he been extended the benefit of Alternative-II, Because, according to submissions made by the Respondents, the applicant was promoted to the scale of Rs. 455-700/- with effect from 1.2.82, i.e. prior to 1.8.82. He has also not explained either by filing rejoinder or during oral arguments as to why he

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remained silent for all these 16 years with regard to change of his option, and /or whether such deviation/change was at his instance. At the same time, it is also a fact that the Respondents have not given any reason for not including the case of the applicant in the list of 77 non-applicants for the restructured cadre of S.M./A.S.M. Having regard to these facts and circumstances of the case and the prayer made by the applicant, the Respondents are directed to consider his case also in the line they had considered the cases of 77 non-applicants, if his case will fall within the parameters according to which similar cases of non-applicants were considered by them by virtue of the letter No. P/L/11/4/10695/Courts Case/SBS/87/Pt., dated 12.1.96. We accordingly dispose of this O.A. with the above direction. No costs."

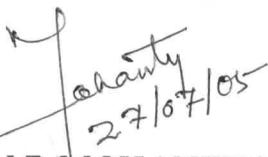
In other words, by our order dated 23.5.03, we had directed the Respondents to consider the case of the applicant in that O.A., in the line, they have considered the cases of another 77 non-applicants provided his case will fall within the parameters according to which similar cases of non-applicants were earlier considered by them by virtue of their letter dated 12.1.96.

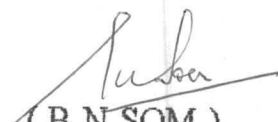
4. The Respondents by filing a detailed counter have taken the position that the applicant is not entitled to any benefits as claimed in this O.A., that the applicant ^{had} never represented during his service period about his option, i.e. channel of promotion and that according to his option for A.S.M. channel, he has received all the benefits during his service career. Their allegation is that it is only after his retirement, he has filed the instant O.A. claiming the benefits as an S.M. Optee, which is not tenable before ^{the eye of} law or in fact. They have also submitted that the case of the applicant, Shri

Dinabandhu Kar, in the earlier O.A. relied upon by the present applicant was considered by the competent authority in obedience to our order dated 23.5.03 in details and the same was found untenable. For the reasons given in that order dated 6.8.04, they have, therefore, called this O.A. being devoid of merit.

5. Having regard to ^{the} prayer made by the applicant and the counter reply filed by the Respondents, we are of the view that the ends of justice will be made if the case of the present applicant is considered once again, in the line. the Respondents had considered the case of Shri Dinbandhu Kar, the applicant in the earlier O.A. No. 83/96 and dispose of his representation with a speaking order. For this purpose, the O.A. filed by the present applicant may be taken as representation filed by the applicant before the Respondent No.4 for this purpose.

6. This O.A. is accordingly disposed of with the above direction. No costs.


(M.R. MOHANTY)
MEMBER(JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN