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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1275 of 2003  
Cuttack, this the 19th day of January, 2005

Sridhar Panda

..... 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 Central Administrative Tribunal or not ?

  
(J.K.KAUSHIK)  
JUDICIAL MEMBER

  
( B.N.SOM )  
VICE-CHAIRMAN

10

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CORAM:

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

AND

HON'BLE SHRI J.K.KAUSHIK, JUDICIAL MEMBER

...

Shri Sridhar Panda, aged about 59 years, s/o. Late Jagabandhu Panda, presently working as Senior Superintendent of Post Offices, Cuttack City Division, Cuttack.

.... Applicant.

Advocates for the applicant

....Mr.D.P.Dhalsamant

Versus-

1. Union of India, represented through its Director General of Posts, Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-1
2. Union of India represented through its Secretary, Ministry of Personnel public Grievances and Pensions, Department of Personnel & Training, New Delhi.
3. Chief Commissioner for Persons with Disabilities, under Ministry of Social Justice and Empowerment, G-31, Sector-39, Noida, Uttar pradesh, PIN-201 301.
4. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist.Khurda.

.... Respondents

Advocates for the Respondents

.... Mr.B.Dash, (ASC)

.....

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN;

Shri Sridhar Panda, working as Sr.Superintendent of Post Offices, Cuttack City Division, has filed this O.A. with a prayer to quash the order of rejection of his representation dtd.27.3.02(Annexure-5) and his representa-

tion dtd.11.4.02 (Annexure-6) and to order that the reservation principle for PH (Physically Handicapped) persons is applicable to the case for promotion and that the applicant is entitled for consideration for promotion to Group -A for the year 1999.

2. The case of the applicant, in a nutshell, is that he was declared PH person by the competent authority of SCB Medical College, Cuttack and was granted Conveyance Allowance w.e.f. 4.1.99. He had submitted representation to the Director General of Posts to grant <sup>him</sup> / promotion under PH quota by his letter dtd.31.1.02 which was rejected by that authority on the ground that such reservation is not available under the existing provisions of the Disability Act. He had, again, pressed the matter before the Director-General of Posts which was again repudiated by that authority by his letter dtd.20.2.02. Being aggrieved by the said orders of rejection, he has filed this O.A.

3. The Respondents have disputed the contention of the applicant. They have submitted that as per the reservation policy issued by the Central Government in respect of physically handicapped candidates, the facility of reservation is available for employees in Group-C and D cadres and in case of Group-A and B officers, it is limited to identical posts for which direct recruitment method is prescribed. In other words, their contention is that for Group-B and A posts, no benefit of reservation is available under promotion quota for PH category of officers. By filing an Additional Counter dtd.17.1.05, the Respondents, relying on the Government of

India, Department of Personnel and Training O.M.No.36034/4/86-Estt(SCT) dtd.25.11.86, have clarified that identification of jobs for reservation under PH quota in Group-A and B posts is confined only to direct recruitment. They have, therefore, submitted that the applicant being a promotee from Group-B to Group-A is not entitled to the same reservation benefit. Further, by filing a copy of the order passed by the Chief Commissioner for Persons with Disability, in case No.2632/2002/4067 (Annexure-R/3) they have submitted that "Reservation in promotion is applicable when promotions are made within Group-D; from Group-D to Group-C and within Group-C but not in Group-A and B."

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

5. We have carefully gone through the Government of India O.M. dtd.25.11.86 and the decision of the Chief Commissioner for Persons with Disability dtd.26.4.04 referred/Having regard to the policy decision of the Government for providing reservation benefit in government service to the PH persons, we have no hesitation to hold that the matter stands clearly decided in the report of the Committee On Identification of Jobs in Group-A and B posts for the PH further communicated in the Government of India OM dtd26.9.96, and later on codified in the 'Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995' which came into force in 1996, <sup>and that</sup> reservation for PH category is available in Group-A & B posts only in case of direct recruitment. By interpreting the provisions of the Act, the Chief Commissioner

for Persons with Disability have also found that reservation in promotion is not applicable for the post in Group-A and Group-B. In view of the above position of law, we see no merit in this application which is accordingly disposed of. No costs.

  
( J.K.KAUSHIK )  
JUDICIAL MEMBER

  
( B.N.SOM )  
VICE-CHAIRMAN

SAN/