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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1490 OF 2003
Cuttack this the 4th day of Jan./ 2005

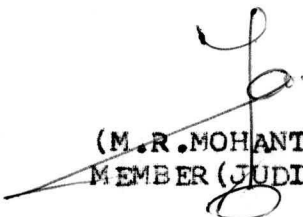
Iswar Chandra Dalai ... Applicant(s)


- VERSUS -

Union of India & Ors. ... Respondents

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1490 OF 2003
Cuttack this the 4th day of January/2005

CORAM:

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

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Iswar Chanda Dalai (S.C.), aged about 55 years,
S/o. late Pahali Dalai, At/PO-Makhanpur,
Via-Turigadia, Dist-Balasore, now working as
Sorting Postman, Motiganj Sub Post Office, in
the Accounts of Balasore Head Post Office

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Applicant

By the Advocates

M/s.P.Mohanty
D.N.Mohapatra
G.S.Satpathy
Smt.J.Mohanty

- VERSUS -

1. Union of India represented by the Chief Post Master General, Orissa Circle, Bhubaneswar, At/PO-Bhubaneswar, Dist-Khurda
2. Suptd. of Post Offices, Balasore Division, At/PO/Dist-Balasore
3. Dinabandhu Patra, now working as Sorting Post Man, Head Post Office, Balasore, PO/Dist-Balasore
4. D.P.S. (Hqrs.), Office of the C.P.M.G., Orissa Circle, At/PO-Bhubaneswar, Dist-Khurda

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Respondents

By the Advocates

Mr.U.B.Mohapatra, SSC

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O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: This Original Application has been filed by Shri Iswar Chandra Dalai, presently working as Sorting Postman, Motiganj Sub Post Office, assailing the order dated 5.12.2002 (Annexure-7) passed by Res. 2 denying him the benefit of Biennial Cadre Review (in short B.C.R.) Scheme against the short-fall vacancies although similar benefit was granted to one Shri Dinabandhu Patra (Res.No.3) with effect from 1.10.1991 although junior to

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him in the basic cadre and that the said Patra (Res.3) had not completed 26 years of service by that time, which is an essential qualification for grant of benefit under the B.C.R.Scheme.

2. It is not necessary to enter into the detail facts of the case for the reason that the issues as raised herein have already been answered by the Full Bench of this Tribunal in O.A.No.329/00. The issues raised in the O.A. are answered as follows for the benefit of the applicant.

3. The applicant in this O.A. has taken the position that B.C.R. is a promotion grade and therefore, the principle of seniority should have been kept in view by the Respondents-Department while effecting promotion of the personnel to that grade. This issue, as referred to above, the Full Bench has answered by holding that "The TBOP and BCR Schemes introduced by the Department of Posts are not promotion Schemes to the next higher posts". The Full Bench further has held that the said Schemes are not in conflict with the norm based promotion to LSG and HSG-II as provided in the Recruitment Rules. They are supplementary to the Rules. The principle of Next Below Rules (NBR) will not be applicable in such Schemes.

Viewed from this angle, the grievance sought to be ventilated by the applicant that Res.No.3 although junior to him in the grade of Sorting Postman has been 'promoted' earlier than him holds no water, because, grant of TBOP is not a promotion, but financial upgradation. The Respondents have also repudiated the averment of the applicant that Shri Patra (Res.3) was junior to him in the feeder grade for promotion to the next higher grade. They have clarified



that while in the grade of Postman, the applicant was senior to Res.3, but, Res.3 got promotion to the next higher grade, i.e., Overseer Mails with effect from 1.3.1980, whereas the applicant was promoted to the said grade on ad hoc basis with effect from 25.4.1985. The Respondents have further disclosed that ^{under} when the B.C.R. Scheme, which is a scheme for grant of financial upgradation to the officials of the Department, who had rendered 26 years of service, the Res.3 was given upgradation to BCR grade even before completing 26 years of service to secure proper representation of SC/ST officials in terms of BG Posts letter No.37-28/91-SPB-1 dated 29.9.1991 and letter No.37-50/91-SPB-1 dated 5.12.1991. In that process, they had found Res.No.3, an official of L.S.G. cadre available for upgradation to make good the short fall vacancy of SC/ST in relaxation of normal rules. The Respondents have also filed the seniority list/gradation list of Overseers/ Sorting Postmen/Head Postmen including TBOP officials, wherein it is found that the Res.3's name finds place at Sl.No.20 of the seniority list of Overseer whereas the name of the applicant is found at Sl.No.16 of the TBOP officials in the Postman cadre, and that between the appblicant and Res.3, there was another official, viz., one Shri D.N.Ghadei, belonging to S.C. category. As the Res.No.3 was senior most S.C. official, he was given the benefit under the B.C.R. Scheme with effect from 1.10.1991, by relaxing the condition of 26 years of service, which

was ^{permissible} permission under the D.G.'s letter dated 5.12.1991 (referred to above) to make good the requirement of SC/ST representation under the scheme.

Having regard to the above facts of the case and also the decision taken by the Full Bench of this Tribunal in O.A.No.329/2000, we are of the view that B.C.R. being not a promotion, the question of inter se seniority would not arise. Not only that, the fact of the matter is that the applicant was granted the benefit of B.C.R. scheme with effect from 05.10.1992, the time when he became eligible under the Scheme for upgradation and Res.3 was given the benefit of B.C.R. with effect from 1.10.1991 as a part of reservation policy in service and he was the senior-most SC candidate in the grade of Overseer Postman/Overseer of Mails etc. The applicant having been given the benefit of the scheme as per the provision envisaged therein, we hold that ~~he does~~ not have any grievance to put forth before this Tribunal. Resuntantly, the O.A. is dismissed, being devoid of any merit. No costs.

(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

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