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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 1499 OF 2003
CUTTACK, THIS THE 15th DAY OF Sept', 2005

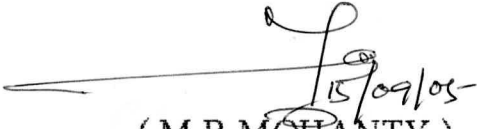
Benudhar Parida.....APPLICANT

VS

Union of India & OthersRESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 75


(M.R. MOHANTY)
MEMBER(Judicial)


(B.N.SOM)
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 1499 OF 2003
CUTTACK, THIS THE 15th DAY OF SEPT', 2005

CORAM:

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

AND

HONBLE SHRI M.R.MOHANTY, MEMBER(J)

.....

Shri Benudhar Parida, Aged about 52 years, S/o. Late Narayan Parida of village –
Anakhia, P.O. -Sbmonga, Via-Tiron, Dist-Jagatsinghpur.

.....Applicant.

Advocate(s) for the Applicant – Mr. T.Rath.

VERSUS

1. Union of India, represented by Secretary to Govt. of India-cum-Director General of Department of Posts, Dak Bhawan, New Delhi-1.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar-1.
3. Director of Postal Services, Headquarters Region, Bhubaneswar.
4. Senior Superintendent of Post Offices, Cuttack City Division, Cuttack-1.

.....Respondents

Advocate(s) for the Respondents - Mr. S.K.Patra (ASC), Mr. S.B.Jena (ASC).

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Benudhar Parida (the applicant) has filed this O.A. being aggrieved that he was not absorbed against the 1/3rd quota vacancies of Lower Selection Grade (LSG, in short) cadre although he ^{had} qualified in the examination held for this purpose in the year 1978. He has sought for the following reliefs in this O.A.: -

- "a) To give a direction to the Respondents to absorb the applicant in the cadre of LSG against the vacancies of the year 1978-79 in which the applicant was declared successful in the qualifying examination in the year 1978-79 keeping his seniority in tact in accordance with the Rule-272 (A) of P&T Manual Vol.-IV.
- b) The applicant after being absorbed in the cadre of LSG in the vacancies of 1978, may kindly be considered to be promoted to the cadre of HSG-II on the basis of selection-cum-seniority through D.P.C.
- c) Any other relief to which the applicant is entitled to be granted."

2. The case of the applicant in short is that the examination for filling up of 1/3rd quota vacancies for promotion to LSG cadre for the year 1978 was held on 15.2.81, and, although his name appeared in the list of successful candidates, he was not granted promotion. The Respondents, thereafter, by order dated 31.5.84 (Annexure-4) decided that vacancies

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against 1/3rd quota relating to the year 1981 as also the vacancies relating to the year 1982 would be filled up by the officials who had qualified at the examination held prior to 1982, in accordance with the procedure in vogue prior to the issue of the office letter dated 31.10.81. But Respondent No.2 did not take any further action till date to appoint the officials to the LSG cadre. When the matter stood thus on 2.1.03 the applicant was informed by Respondent No.2 through Respondent No.4 that the scheme of 1/3 quota for filling up vacancies in LSG was no longer in operation. However, the Respondents, ignoring the genuine claim of the applicant introduced the new scheme, called, Fast Track Promotion Scheme for Postal Assistants and Sorting Assistants for promotion to LSG/HSG-II posts amending the Recruitment Rules vide DG Posts, New Delhi letter No. 137-10/96-SPB-II dated 11.2.02. His grievance is that as he has already qualified for promotion to LSG post through examination, he should first be given the benefit of filling up of LSG vacancies by examination method before the freshers are allowed to appear in the Fast Track Promotion examination which is to be held from 27.5.03 to 29.5.03.


3. The Respondents have opposed the application by filing a detailed counter. They have not disputed that the applicant had qualified in the 1/3rd quota examination for promotion to LSG held for the year 1978-1980 on 15.2.81. However, it is their submission that the DG Posts by his letter dated 21.10.81 had modified the instruction for promotion under 1/3rd quota to the effect that from 1981 onwards 1/3rd quota LSG examination would be a competitive one instead of being qualifying. Qualified but unabsorbed candidates of the earlier examinations held in 1975, 1976, 1978 and February, 1981 were taken out of the list for the purpose of promotion to LSG cadre and that the unabsorbed candidates would have to either wait for

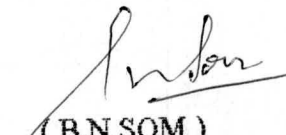
their turn for promotion on the basis of seniority-cum-fitness against 2/3rd quota vacancies or they would have to appear in the competitive examination again. The applicant having not appeared in the competitive examination, his promotion to the LSG cadre could not materialize. In support of their submission, they have filed the revised examination scheme for promotion to LSG cadre against 1/3rd quota under Annexure- R/1.

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

5. The short question to be answered in this O.A. is whether the applicant having been qualified for promotion to LSG cadre under 1/3rd quota scheme on the basis of the examination held on 15.2.81 can raise a claim for promotion with the introduction of Fast Track Promotion Scheme notified by the Department in the year 2002. In this connection, it is pertinent to refer to the reply filed by the Respondents in their counter to the effect that the Director General of Posts by his letter No. 6/2/79-SPB.II, dated 21.10.81 had decided that 1/3rd quota of LSG vacancies arising from 1.1.81 would be filled up by competitive examination and that the qualified but unabsorbed candidates of earlier examinations held in the year 1975, 1976, 1978 and February, 1981 would be no more on the list. It further laid down that " for their promotion to LSG cadre either they have to wait for their turn on the basis of seniority-cum-fitness against 2/3rd quota vacancies or they have to appear in the competitive examination again." That being the revised policy of the Respondent Department, the applicant cannot raise any claim for promotion as a qualified candidate to LSG cadre. The Ld. Counsel for the applicant by drawing our notice to the DG Posts letter dated 30.7.98 (Annexure-12) tried to persuade us to believe that there was a rethink in the

whole matter by the Director General of Posts regarding promotion of officials who had qualified in the test against 1/3rd quota vacancies, and, in the circumstances, the Respondents should come out clean in the matter. We, however, do not see how this letter is of any help to the cause of the applicant as clarified by the Respondents by filing reply to rejoinder, dated 29.8.05. The fact of the matter as clarified by the Respondents is that the Respondent No.2 was called upon by the Respondent No.1 to submit information about the number of officials who had remained unabsorbed after being qualified against 1/3rd quota vacancies relating to the year 1981 but there was no specific direction sent to him with regard to absorption of such qualified candidates. It was a routine exercise, which did not fructify into any concrete policy decision to offer any benefit to the officials like the applicant. In other words, the decision of Respondent No.1 communicated by his letter dated 21.10.81, prescribing that the unabsorbed candidates of earlier examinations held in 1975, 76, 78 and February, 1981 who were de-listed for promotion to LSG quota had remained unaltered even in 2003 and that decision having been communicated to the applicant by the Respondent No.2 by his letter dated 2.12.03 (Annexure-7), we see no merit in this O.A. which is accordingly dismissed. No costs.


(M.R.MOHANTY)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

KUMAR