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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 925 to 943 OF 2001
CUTTACK THIS THE 29th DAY OF ~~SEP.~~ 2005
AUGUST,

Ganesh Ch. Sahu & Ors.

....

Applicant(s)

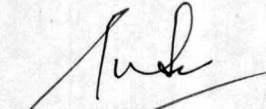
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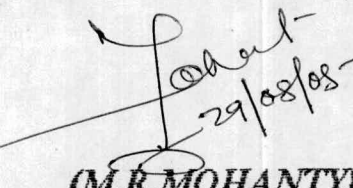
Union of India & Ors.

Respondents

FOR INSTRUCTIONS

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


(B.N.SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.925 OF 2004

Cuttack this the 29th day of ~~Sept~~ 2005
AUGUST

CORAM:

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

...

1. Ganesh Chandra Sahu, aged about 59 years, S/o. late Haladhar Sahu, At: Balipada, Post: Pattamundai, Dist: Kendrapara, at present working as BCR P.A. 9H.S.G.-II) at Kendra Post Office, Kendrapara
2. Sribatsa Naik, aged about 56 years, S/o. late Khageswar Nayak, A/P. Gamu, Via: Indupur, Dist: Kendrapara, at present working as B.C.R. P.A. (H.S.G.II) At: Indupur Sub Office under Kendrapara H.O.
3. Dhurba Charan Sethi, aged about 58 years, S/o. late Fagu Sethy, At-Vill : Jagannathpur, Post: Chhoti, Via: Indupur, Dist: Kendrapara, At present working as BCR (H.S.G.II) as S.P.M. Balichandrapur Sub Post Office, Dist: Kendrapara
4. Bishnu Pada Dash, aged about 52 years, S/o. late Maguni Ch.Das, At: Thakursahi, Post: Batipara, Dist: Kendrapara at present working as BCR (H.S.G.II) as S.P.M. Batipara, SO under Kendrapara H.O.
5. Kelu Charan Sutar, aged about 59 years S/o. late Iswar Chandra Sutar, At: Itipur, Post: Barua, Dist: Kendrapara, now working as B.C.R. (H.S.G. II) as Sub Post Master, Kendrapara College Campus Post Office, Kendrapara
6. Syed Mahamed Ali, aged about 50 years, S/o late Syed Mouzamal Ali, At: Dilarpur, Post Kendrapara, at present working as BCR (HSG-II) P.A. at Salipur S.O., Dist: Cuttack
7. Raghunath Dalai, aged about 57 years, S/o. late Satrugna Dalai, At: Vill; Ramchandrapur, Post: Chayanpal, Via: Kuanpal, Dist: Cuttack at present working as BCR (HSG-II) as S.P.M., Kuanpal S.O., Dist: Kendrapara
8. Rabindranath Baral, aged about 57 years, S/o. late Rasananda Baral, At/Post: Kusunpur, Via: Chandol, Dist: Cuttack at present working as BCR PA (H.S.G.II) at Salipur S.O., Dist: Cuttack

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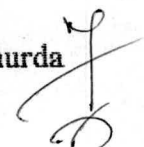
9. Rajendra Prasad Dhal, aged about 43 years, S/o. Sanand Dhal, At/Vill: Jharokota, Post: Bharigada, Via: Raj Kanika, Dist: Kendrapara at present working as SPM (TBOP) at Namouza SO Dist: Kendrapara
10. Satya Narayan Mohanty, aged about 41 years, S/o. Surakishore Mohanty at present working as SPM (TBOP) at Mahanga Sub Office, Dist: Kendrapara
11. Prahallad Mallick, aged about 52 years, S/o. Dharanidhar Mallick, At/Po: Chandol, Dist: Kendrapara at present working as TBOP, SPM, at Ssureswar Sub Office, Dist: Kendrapara
12. Babaji Ch. Mallick, aged about 55 years, S/o. Jayaram Mallick, At/Vill: Tarando, Post: Barua, Dist: Kendrapara working as TBOP (LSG) P.A. At: Kendrapara Head Post Office, Dist: Kendrapara
13. Braja Kishore Samal, aged about 50 years, S/o. Golak Chandra Samal, At: Bahadur Nagar, Post: Charinangal, Dist: Jajpur, at present working as TBOP (LSG) Sub Post Master at Tinimuhani Sub Office, Dist: Kendrapara
14. Arun Kumar Mohanty, aged about 50 years, S/o. Brajabandhu Mohanty, At: Dhumatsasan, Post: Indupur, Dist: Kendrapara, at present working as TBOP (LSG) as Sub Post Master, Bedari SO. Under Kendrapara H.O., Kendrapara
15. Prafulla Ch. Paramanik, aged about 43 years, S/o. Manohar Parmanik, At: Vill: Keyar Bank, Via: Mahakalapara, Dist: Kendrapara, at present working as TBOP (LSG) P.A. At: Mahakalapara Sub Office under Kendrapara H.O., Dist: Kendrapara
16. Pravakar Behera, aged about 41 years, S/o. Hadibandhu Behera, At/Vill: Sanjaria, Post: Jaria, Dist: Kendrapara now working as TBOP (LSG) P.S. at Pattamundai SO under Kendrapara H.O., Dist: Kendrapara
17. Pravakar Samal, aged about 46 years, S/o. Chaturbhuja Samal, At/Vill: Kalamada, Post: Bhuinpur, Dist: Kendrapara, now working TBOP (LSG) P.A. at Aul Sub Office, Aul, Dist: Kendrapara
18. Krutibas Behera, aged about 45 years, S/o. Kusasan Behera, At/Po: Gulnagar, Dist: Kendrapara, at present working as TBOP (LSG) P.A. at Kendrapara H.O. Kendrapara
19. Kailash Chandra Sethy, aged about 48 years, S/o. Muralidhar Sethy, Post/PS/Dist: Kendrapara at present working as TBOP (LSG) as S.P.M. Derabisi SO, Dist: Kendrapara

By the Advocates:

Applicants
M/s/B.B. Patnaik
M.K. Dash

-VERSUS-

1. Union of India represented by its Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist: Khurda



3. Director of Postal Services (HQRS), Officer of the C.P.M.G., Orissa Circle, Bhubaneswar, Dist: Khurda
4. Superintendent of Post Offices, Cuttack (North) Division, Cuttack

By the Advocates:

Respondents
Mr. U.B. Mohapatra, SSC

ORDER

MR. M. R. MOHANTY, MEMBER (JUDICIAL): This Original Application has been filed by Shri Ghana Shyam Sahoo and 18 others being aggrieved by the introduction of a scheme of promotion, called, First Track Promotion to the cadre of Lower Selection Grade (in short L.S.G.) and Higher Selection Grade-II (in short H.S.G.-II) since July, 2003 by the Respondents. The grievance of the applicants is that the said scheme of promotion has been introduced in violation of the Recruitment Rules, 1976. They have, therefore, moved this Tribunal in the present O.A. seeking the following relief:

“...to quash the scheme under Annexure A/9 as void and not sustainable under eye of law.

...to declare that the TBOP and BCR are equal to that of LSG and HSG considering the judgment passed by the Hon'ble CAT, Madras Bench in O.A. NO.679/2003

...to quash the order under Annexure A/10 passed by the Respondent No.4 by disallowing the applicant No.1 from officiating in the post of HSG I

...to pass such other order or direction as deemed fit and proper under the circumstances of the case for rendering justice”

2. The applicants have challenged the First Track Promotion Scheme on the ground that the Department, after having introduced the Time Bound One Promotion and Biennial Cadre Review (TBOP & BCR) Schemes for giving promotion to higher grades



on the recommendation of the duly constituted Departmental Promotion Committee (in short DPC) could not have legally introduced another scheme as stated above, as that scheme jeopardizes the vested interest of the beneficiaries of TBOP. They have further argued that after introduction of TBOP scheme, examination for promotion to the post of L.S.G. was abolished and therefore, the Department is estopped to conduct any examination for LSG and HSG-II, because if the Department is allowed to conduct the said examination, the senior officials may not get any chance to hold any supervisory posts.

3. The Respondents by filing a detailed counter have opposed the prayer of the applicants on the ground that the O.A. is devoid of merit and the applicants are not entitled to any of the reliefs sought for in Para 8 of the O.A. In support of their argument, they have submitted that the TBOP and BCR Schemes were introduced with effect from 30.11.1983 and 1.10.1991 respectively to improve the career prospects of the employees in the field offices of the Department. However, in terms of those schemes, the officials at the base level of Postal Assistant continue to perform operative duties although they are allowed the benefit of the higher pay scales of LSG and HSG II depending on their length of service. However, while the career aspirations of the employees were well-served because of introduction of these two promotion schemes, the quality of the supervisory cadres both in LSG and H.S.G. II were marginalized leading to operational problems. Thus, to re-establish properly the command and control structure of the supervisory cadres, amendment was made to the recruitment rules for LSG and HSG II posts providing promotion on merit basis with a view to motivating the supervisors with first track promotion avenues and to induct greater merit in promotion to higher post

through competitive examination. The recruitment rules were notified on 24.1.2002 amending the Posts & Telegraphs (Selection Grade Posts) Recruitment Rules, 1976 (Annexure R/1). They have further averred that the said promotion scheme to fill up LSG/HSG II posts in Post Offices and RMS office was introduced in consultation with the representatives of the Staff Federation as per Annexure-R/2 to the counter. The Respondents have further submitted that TBOP and BCR Schemes are only extension of higher financial benefits under the time bound schemes. The up-gradation of pay scales of the officials under these schemes is not based on availability of vacancies in higher grades and in placement of the officials under TBOP/BCR scheme, only average grading in the ACR is taken as norm for up-gradation whereas different yardsticks are followed for promotion to LSG/HSG II, which are norm based supervisory posts. Further that the First Track Promotion scheme was not introduced to replace the existing TBOP/BCR schemes as stated by the applicants. They have further submitted that this Tribunal, in a similar case in O.A.No.329/00 dated 11.1.2005 has held that TBOP/BCR are not promotion to next higher posts and had dismissed the O.A. being devoid of merit.

4. We have heard the learned counsel for the parties and perused the materials placed before us.

5. The issues raised in this O.A. are no longer res integra, as repeatedly submitted by the Respondents in their counter, as also by the learned Sr. Standing Counsel, during oral hearing. It would suffice to say that the questions whether the TBOP or BCR Schemes introduced by the Department of Posts are promotion scheme and whether TBOP or ~~BCR~~ schemes are in conflict with the norm based promotion to LSG or HSG-II, as provided under the Recruitment Rules for selection grade post notified in the

gazette of India dated 24.6.2002 had been considered by the Full Bench of this Tribunal at Cuttack. After considering the issues at length and hearing the parties both the questions have been answered by the Full Bench as follows:

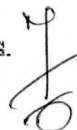
- a) The TBOP and BCR schemes introduced by the Department of Posts are not promotion scheme to the next higher post
- b) The said schemes are not in conflict with the norm based promotion to LST and HST II as provided in the Recruitment Rules. They are supplementary to the Rules.

6. The same questions were again placed before another Full Bench of CAT, Hyderabad in O.A. Nos.976 to 979 of 2003 and those were answered in line with the decision of the Full Bench of C.A.T., Cuttack (as referred to above).

7. We would also like to refer to the decision of the Chennai Bench of the Tribunal in O.A.No.378/03 with regard to legal validity of the amendment carried out in Posts & Telegraphs (Selection Grade Posts) Recruitment Rules, 1976, introducing new procedure of promotion to LSG/HSG-II posts. We would also like to quote the relevant portion from the said decision as follows :

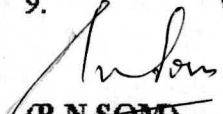
"It may be noted that the RRs brought into force in the year 2002 is a policy decision of the Government under Article 309 of the Constitution. It effectively replaces some of the entries in the old RRS, viz., P&T RRS 1976. Prima facie, we have no reason to question the reasonableness or the power to frame such rules at this point of time. Therefore, on this score along the applicant has no case".

8. In conspectus of the above decision of the Full Bench and the findings of the Chennai Bench with regard to the legal validity of the amendment to the Recruitment Rules carried out by the Department with effect from 2002, we are of the opinion that all the issues raised by the applicants having been answered in the negative, the O.A. is devoid of merit and therefore, the same is dismissed. No costs.

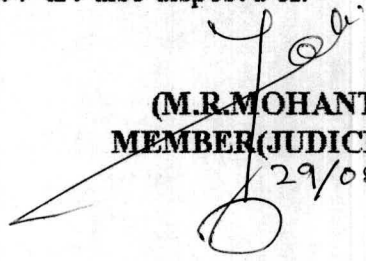


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9.

With this, the O.A.Nos.926 to 943 of 2004 are also disposed of.


(B.N.SOM)

VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

29/08/2005