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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 04/03/2008

O.A. No.1286/2004

A.K.Tripathy & Others... Applicants

versus

Union of India & Ors. ... Respondents

(FOR INSTRUCTIONS)

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

(C.R.MOHAPATRA)
MEMBER(A)

(DR.K.B.S.RAJAN)
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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Date of order: 04/03/2008

PRESENT:

THE HON'BLE DR.K.B.S.RAJAN, MEMBER(J)
A N D
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

In the Matter of

O.A. No.1286/2004

A.K.Tripathy & Others ... Applicant

versus

Union of India & Ors. ... Respondents

(For Full details, see the enclosed cause title)

For Applicant: : M/s.P.K.Chand, D.Satpathy, Counsel.

For Respondents: M/s.Ashok Mohanty, Sr. Counsel & M/s.
S.K.Ojha & A.K.Sahoo (For Res.No.1,
Counsel

O R D E R

Per DR.K.B.S.RAJAN, MEMBER(J):

This case is identical to that of O.A. No. 1285 of 2004
(Sukumar Singh v Union of India and others) inasmuch as in both

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the case, order dated 19.11.2004 of the Respondents whereby they have cancelled the promotion granted to the Applicants is under challenge. The reasons for cancellation in both the cases are that by virtue of option given by the Applicants for switching over to the new zonal railways their lien from the Division gets changed to E.Co. Railway headquarters.

2. This Tribunal in OA No. 1285 OF 2005 (Supra) has held as under:

9. Arguments were heard and documents perused. The fact remains that the applicant was originally borne Khurda Road Division and his seniority was maintained in that Division. At that time the said Khurda Road Division was a part of S.E. Railway. When this Railway was trifurcated as S.E. Railway, S.E.C. Railway and E.Co. Railway, options were asked. As Khurda Road Division fell under E.Co. Railway, the applicant opted for E.Co. Railway. For, if he opts to remain in S.E. Railway, he may be disturbed from the present place of posting. As such, his intention has been to move with Khurda Road Division, wherever the Division is attached. It would have been a different matter if the applicant's seniority was maintained by S.E. Railway at the HQ unit, in which on the trifurcation, the applicant's lien would have been transferred to the HQ unit of East Coast Railway. This is not the case here. The attachment of Khurda Road Division with East Coast Railway cannot make any change in so far as the lien of the applicant in the Khurda Road Division is concerned. It may be that when a person is promoted to a higher grade whereby, from the divisional seniority, he moves to the zonal seniority, such seniority would be transferred to the zonal seniority. Presumably, seniority of JE I is maintained at the zonal level. In so far as the applicant is concerned,

his promotion has been on the basis of test conducted by the DRM, Khurda Road Division, vide Annexure A-14, A-15, and A-16 and on his qualifying and being promoted to the post of JE (I) if the seniority has to be maintained Zonal wise, Annexure A-17 is in conformity of the same, whereby the seniority of the applicant has been transferred to East Coast Headquarters. As such, there is no question of the applicant being reverted on the ground that his lien has been transferred to Hqrs. If, however, JE I is a grade coming within the divisional level, then the move of applicant's seniority to zonal Headquarters becomes inappropriate and the same is behind the back of the applicant. From that point of view, the applicant is entitled to retain the lien at Khurda Road.

10. Thus, viewed from any angle, the applicant has made out a cast iron case in his favour. The impugned order dated 19-11-2004 (Annexure A-6) is quashed and set aside, in so far as it relates to the applicant. Respondents are directed not to disturb the applicant from the present post of J.E. Gr. I.

11. No cost."

3. The above decision holds good in this case as well. Consequently, this OA is allowed. Order dated 19.11.2004 of the Respondents is hereby quashed and set-aside so far as it relates to Applicant. Respondents are directed not to disturb the Applicant from the posts which they were holding prior to issuance of the impugned order dated 19.11.2004. No costs.

(C.R.MOHAPATRA)
MEMBER(A)

(DR.K.B.S.RAJAN)
MEMBER(J)