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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.41 OF 2005

Cuttack this the 20th day of June, 2006

Sri Mahesh...Applicant(s)

-VERSUS-

Union of India & Ors. Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? NO

B.B.M.
(B.B. MISHRA)
MEMBER (ADMN.)

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(B. PANIGRAHI)
CHAIRMAN

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**CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO.41 OF 2005

Cuttack this the 20th day of June, 2006

CORAM:

**HON'BLE MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN
AND
HON'BLE MR. B.B.MISHRA, MEMBER(ADMN.)**

...

Shri Mahesh, aged about 54 years, son of Shri Sukdeo, at present residing at Qrs. No.J/5/4-II, Railway Colony, Mancheswar, Bhubaneswar, District: Khurda, at present working as Fitter Grade-III, Card No.1189, Carriage Repair Workshop East Coast Railway, Mancheswar, Bhubaneswar, District : Khurda

By the Advocates :

... Applicant
M/s.B.S.Tripathy
M.K.Rath
J.Pati

-VERSUS-

1. Union of India represented through the General Manager, East Coast Railway, At/PO-Chandrasekharpur, Bhubaneswar, Dist-Khurda-23
2. The General Manager, South Eastern Railway, Garden Reach, Kolkata-43
3. The Chief Personnel Officer, East Coast Railway, At/PO-Chandrasekharpur, Bhubaneswar, District-Khurda
4. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-43
5. The Workshop Personnel Officer, South Eastern Railway, Kharagpur Wrkshop, Kharagpur, West Bengal

6. The Chief Workshop Manager (P), Carriage Repair Workshop, East Coast Railway, Mancheswar, Bhubaneswar, District: Khurda
7. The Workshop Personnel Officer, Carriage Repair Workshop, East Coast Railway, Mancheswar, Bhubaneswar, District: Khurda

...Respondents

By the Advocates:

Mr.O.N.Ghosh

ORDER

MR. JUSTICE B.PANIGRAHI, THE CHAIRMAN:

1. The applicant was initially appointed as Fitter, Gr.III in Kharagpur Workshop under S.E.Railway. In 1982, he came on transfer to the Carriage Repair Workshop at Mancheswar in the interest of the administration and joined as such. In course of service, he was given promotion to the post of Fitter, Gr.II, then Technician, Gr.I and ultimately to the post of Master Craftsman. The applicant, while working as Master Craftsman in the Carriage Repair Workshop at Mancheswar under South Eastern Railways, applied for mutual transfer on reversion as Technician, Gr.I on 19.10.1992 with one Shri B.D.Behera, who at that time was working as Technician, Gr.I in Kharagpur Workshop under S.E.Railways. His mutual transfer application was, however, acceded to by the then Chief Personnel Officer and accordingly, the transfer order was issued by the Respondents vide order dated 14.5.1993. It has been submitted by the applicant that even though

he had sought mutual transfer to come to Kharagpur against a lower post, in the meantime Shri B.D.Behera, who consented his transfer to Mancheswar had already joined. The applicant failed to join at Kharagpur and therefore, prayed for cancellation of transfer order. Since the post which was previously held before transfer was already filled up by Shri Behera, therefore, the applicant was asked to join against a lower post and the Respondents also directed to give him the bottom seniority in the aforesaid post. Being aggrieved by the aforesaid order although the applicant joined the said post but he preferred a representation which was rejected by the Respondents. He has, therefore, filed this case praying to quash the order of rejection dated 3.12.1999 and 5.10.2004 vide Annexures-A/3 and A/7 respectively. He has, inter alia prayed for promotion to the post of Technician, Gr.I and further to extend all consequential benefits in his favour to which he is entitled.

2. The Respondents have filed their counter-reply in which they have stated that the applicant had applied for mutual transfer on reversion to Kharagpur with Shri B.D.Behera. Shri Behera joined at Mancheswar Workshop as Fitter, Gr.I. The applicant although was asked to join at Kharagpur, but he declined to join as such and had prayed for reversion to his old destination at Mancheswar. By that time since there was no vacancy as Shri

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Behera had already joined, therefore, the applicant accepted the bottom seniority and worked as Fitter, Gr.III. Therefore, at this length of time the question for giving him erstwhile seniority does not arise. His representation did not contain valid reasons. Therefore, the Respondent-authorities were well within their powers to reject the same.

3. After giving our anxious thoughts over the matter and after going through the application as well as counter-reply, we find that most of the facts are admitted. It is true that the applicant was initially serving as Fitter, Gr.III and in course of service he was given promotion to Master Craftsman. But since there was no post of Master Craftsman available at Kharagpur, he was prepared to accept the lower post, i.e., Technican, Gr.I since Shri B.D.Behera was also holding the said post. Shri Behera on account of his prayer for mutual transfer came and joined as Technican, Gr.I at Mancheswar. Later on the applicant changed his mind and wanted to come back to his old destination at Mancheswar. By the time he prayed to come back to Mancheswar the post held by him was not available and therefore he accepted the bottom seniority and joined at Mancheswar as Technician, Gr.III.


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4. Whether to restore previous seniority or not is completely within the domain of the Respondents. In this case the Respondents

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have already rejected the applicant's prayer. Shri B.S.Tripathy, learned counsel for the applicant has submitted that if leave is granted, his client would prefer a further appeal before the railway authorities. Accordingly, in the event such an appeal is preferred by the applicant, the Respondent- authorities are at liberty to dispose it of in accordance with the rules, within a period of four months from the date of receipt of such appeal.

5. With the above observation and direction, this O.A. is disposed of. No costs.


(B.B.MISHRA)
MEMBER(ADMINISTRATIVE)


(B.PANIGRAHI)
CHAIRMAN