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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.No. 512 of 2005
Cuttack, this the 31st July 2009

Sri Pramod Chandra Patnaik Applicant
Vrs.
Union of India and others Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be sent to the P.B., CAT, or not?

(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

(K.THANKAPPAN)
JUDICIAL MEMBER

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O.A.No. 512 of 2005
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CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
And
HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

Sri Pramod Chandra Patnaik, aged about 47 years, son of late Gouri Shyam Patnaik, at present working as Senior Clerk under Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, Jatni, Dist. Khurda.....Applicant

Advocates for applicant - M/s J.M.Patnaik, S.Mishra, M.S.Raman,
P.K.Rout

Vrs.

1. Union of India, represented by its General Manager, East Coast Railway, At/PO-Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Personnel Officer, East Coast Railway, At/PO Chandrasekharpur, Bhubaneswar, Dist.Khurda.
3. The Divisional Railway Manager, east Coast Railway, Khurda Road Division, At/PO Jatni, Dist. Khurda.
4. The Divisional Railway Manager (Personnel), East Coast Railway, Khurda Road Division, At/PO Jatni, Dist.Khurda.
5. The Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO Jatni, Dist.Khurda.
6. The Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO Jatni, Dist.Khurda
7. Sri Rajendra Prasad Panda, office of the Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO Jatni, Dist.Khurda

.....
Respondents

Advocate for Respondents - Mr.B.K.Behura

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ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicant has filed this Original Application with the following prayers:

- “(b) To quash the order passed by the Respondent No.2 on dtd. 20.04.2005 vide Annexure 14.
- (c) To give direction to assign due seniority from the date 24.03.1987 instead of 02.06.1989 as Jr.Clerk.
- (d) To give direction to the Respondents for interpolation of Jr.Clerk gradation list prepared on dtd.22.02.1993 vide Annexure A/8 by placing the name of the applicant above Sl.No.9 of the said gradation list.
- (e) To give direction after assigning seniority from the date 24.03.1987 as Jr.Clerk and all other consequential benefits to be extended.”

2. Short facts of this case are that the applicant was originally appointed as Rakshak(Group D) in the Railway Protection Force (R.P.F.) on 17.10.1981 in the Security Department of the Railways. He was promoted to the grade of Naik in the pay scale of Rs.950-1400/- in the R.P.F. w.e.f. 24.3.1987. Subsequently, he was medically decategorised as he could not continue as Naik. After due consideration, the authorities of both the R.P.F. as well as the Railways gave a posting to the applicant as Peon w.e.f. 2.6.1989 protecting his pay as he was getting as Naik. But he lost some benefits which were applicable to the R.P.F.. After considering his case for appointing or posting him to equated post, the authorities



appointed or rather promoted the applicant as Junior Clerk in the pay scale of Rs.950-1500/- and he joined as such on 17.7.1991 and his services were regularized as an employee of the Railways. When the Pay Commission reports were given effect to, the pay of the applicant along with the pay Office Clerks was revised. The present claim of the applicant is that he should have been given seniority as Junior Clerk w.e.f. 24.3.1987, i.e., the date on which he was promoted to the grade of Naik in the R.P.F. His representations having yielded no fruitful result, he has filed the present O.A.

3. The O.A. has been admitted by this Tribunal and notice ordered to the Respondents. In response to the notice received from this Tribunal, the Respondents have filed a counter taking the stand that as the applicant was working as Naik in the R.P.F. in the pay scale of Rs.950-1400/- which was a lower grade than Junior Clerk in the pay scale of Rs.950-1500/-in the Railways at the time of his medical decategorization and initial absorption as Peon w.e.f. 2.6.1989 and subsequent appointment as Junior Clerk w.e.f. 17.7.1991, he was not entitled to count his seniority w.e.f. 24.3.1987. The further stand taken in the counter is that there is no rule, or law, or order, to give a posting to, or appoint a member of the R.P.F. in the Railway service consequent upon medical decategorization since the service under the R.P.F. is not



Railway service as far as Railway administration is concerned. However, because of the pathetic position, which the applicant had after his medical decategorization, both the Heads of Departments of the R.P.F. as well as Railways posted him as Peon or rather appointed him in the Railway service and subsequently appointed/absorbed as Junior Clerk/Office Clerk. On the above stand, it is prayed in the counter that the O.A. is liable to be dismissed as meritless.

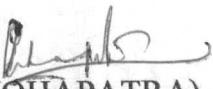
4. We have heard the learned counsel appearing on either side and perused the documents produced in the O.A.

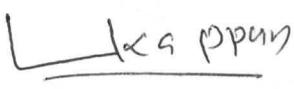
5. Admittedly, the applicant was appointed as a Rakshak/Constable (Group D) in the R.P.F., which is a paramilitary force and not in the Railway service. However, it is to be noted that while working as Naik in the R.P.F., the applicant was medically decategorized. On medical decategorization, he was initially given posting as a Peon in the Railway service w.e.f. 2.6.1989. In consideration of his representation, the applicant was subsequently appointed/absorbed as Junior Clerk/Office Clerk w.e.f. 17.7.1991. Though he was absorbed as Junior Clerk in the Railway service w.e.f. 17.7.1991, yet the Respondent-Railways counted his seniority as Junior Clerk w.e.f. 2.6.1989, i.e., the date when he was initially absorbed as Peon (Group D). If so, the posting of the applicant either as Peon or Office Clerk



cannot be equated with a posting under the rules or orders of the Railways dealing with the medical decategorization of Railway employees. The stand taken by the Respondent-Railways in the counter that at the time of the applicant's medical decategorization and his absorption as Peon or Office Clerk, the post of Naik (Rs.950-1400) was a lower grade than Junior Clerk/Office Clerk (Rs.950-1500) and therefore, the applicant is not entitled to count his seniority as Junior Clerk/Office Clerk in the Railways w.e.f. the date of his appointment/promotion to the grade of Naik, i.e., 24.3.1987, in terms of Paragraph 1314 of the IREM, Vol.I, has not been refuted by the applicant. In this view of the matter, this Tribunal is of the view that the applicant cannot claim benefit of seniority as Junior Clerk/Office Clerk in the Railways with reference to his appointment/promotion as Naik in the R.P.F. in terms of Paragraph 1314(ibid). We, therefore, find no infirmity in the order at Annexure A/14 warranting interference by this Tribunal and consequently, the other prayers of the applicant also fail.

6. In the result, the O.A. being devoid of any merit is dismissed. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(K.THANKAPPAN)
JUDICIAL MEMBER