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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NO.323 OF 2002

Cuttack, this the 11th day of May 2005

Shri A.K.Dey

..... Applicant

Vrs.

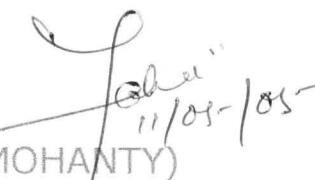
Union of India and others

..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes

  
(M.R. MOHANTY)  
JUDICIAL MEMBER

  
(B.N. SOM)  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NO.323 OF 2002  
Cuttack, this the 11<sup>th</sup> day of May 2005

CORAM:

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

Sri Anil Kumar Dey, aged about 43 years, son of Sri Laxman Chandra Dey, at present working as Inspector of Income Tax, in the office of Commissioner of Income Tax (CIT), Bhubaneswar, Ayakar Bhawan, Central Revenue Building, Dist. Khurda, permanent resident of At-Janugang, P.O. Madhab Nagar, P.S. Bhadrak Town, Dist. Bhadrak, Orissa. .... Applicant

Advocates for the applicant- M/s.K.C.Kanungo, S.Beheera & R.N.Singh

Versus

Union of India, represented through:

1. Chairman, Central Board of Direct Taxes, North Block, New Delhi 1.
2. Chief Commissioner of Income Tax, Ayakar Bhawan, Rajaswa Vihar, P.O. Vani Vihar, Bhubaneswar, Dist. Khurda ..... Respondents

Advocates for the Respondents- Mr. U.B.Mohapatra  
Sr.CGSC

ORDERSHRI B.N.SOM, VICE-CHAIRMAN

1. Shri Anil Kumar Dey, at present working as Inspector of Income Tax ('I.I.T.' for short) in the office of the Commissioner of Income Tax, Bhubaneswar, has filed this Original Application challenging the order of reversion issued by Respondent NO.2 vide order No. 01/2002-03 dated 29.4.2002 (Annexure 2) on the grounds of illegality, arbitrariness and discrimination. He has also alleged that he has been greatly prejudiced by the said order of reversion and he is suffering financial loss.

2. This is the fourth round of litigation on the part of the applicant to secure promotion under physically handicapped quota. The earlier application, OA No. 484 of 1995 was disposed of by order dated 25.8.1995 with a direction to the departmental authorities to examine his representation dated 31.7.1995 and to take a suitable decision in the matter and to communicate the same to him before the next round of promotion to the rank of I.I.T. is finalized and *h*

ordered. His representation was rejected by the departmental authorities on the ground that at that time there was no vacancy in the grade of I.I.T. reserved for physically handicapped quota. Then he filed OA No.11 of 1996 and while that was pending he came in OA No.556 of 1998. Both the O.As. were disposed of by a common order dated 22.5.2000. While disposing of these O.As. regarding his promotion to the grade of I.I.T. under physically handicapped quota, this Tribunal observed as follows:

".....Needless to say that in case the applicant's turn comes up for promotion to the rank of Inspector before roster point no.100 becomes due, then naturally he will be considered in his turn. In view of this, the prayer of the applicant in this O.A. that he should be promoted to the rank of Inspector against the quota reserved for physically handicapped against an earlier point is held to be without any merit.

14. The second prayer of the applicant in OA No.11 of 1996 is for quashing Annexure A/12 which is an order dated 30.11.1995 in which seven persons have been promoted to the rank of Inspector. These seven persons have been styled as private respondent nos. 4 to 10. On a reference to the roster point register we find that these seven persons were promoted in the second block

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sometime in 1995. We have already noted that one person M.Sivajee was given promotion to the rank of Inspector in this block and therefore there has been no illegality in giving promotion to these seven persons. The prayer of the applicant to quash their promotion is accordingly held to be without any merit and is rejected.

15. In the result, therefore, these two Original Applications are held to be without any merit and are rejected but without any order as to costs."

It is in this backdrop of the preceding litigations and our order dated 22.5.2000 that the present O.A. may be disposed of.

3. The sole question to be considered in this o.A. is, whether the order of reversion at Annexure-2 issued by Respondent No.2 is legally sustainable. It would be profitable to refer to the order No.01/2002-03 dated 29.4.2002 (Annexure 2) issued by respondent No.2:

"The following Stenographers Grade-II were promoted to officiate as Inspector of Income tax in the scale of pay of Rs.5500-175-9000 vide this office order No.06 of 2001-2002 dated 20<sup>th</sup> July 2001 communicated vide Memo No. EIII/68/2001-2002/5096-5220 dated 20<sup>th</sup> July 2001."

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4. On a reference to the order dated 20.7.2001 (Annexure 1), it is found that the following order was issued:

"On the recommendation of the Departmental Promotion Committees, the Chief Commissioner of Income tax, Orissa, has approved the promotions of the following officials to various grades as mentioned below on ad hoc and provisional basis with effect from the date the concerned officials take over the charge of their respective posts.

1. SENIOR PERSONAL ASSISTANT (6500-200-10,500)

XX	XX
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2. Inspector of income tax (5500-175-9000)

xx	xx
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34. A.K.Dey, (PH) Steno Gr.II

35. G.C.Rout, Steno Gr.II

36. A.K.Mallick (SC) Steno Gr.II

37. Mrs.C.L.Mohanty, Asst.

38. Dhaneswar Swain, T.A.

Xx	xx"
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From the office order referred to above, it is clear that the promotion of the applicant to the grade of I.I.T. made by the order of Respondent No.2 dated 20.7.2001 was purely made on ad hoc and provisional basis. It is well settled law that in the matter of ad hoc promotion, communal roster is not maintained and no material has been placed before us to

believe that in ad hoc promotion roster for the Physically Handicapped quota is maintainable. We like to observe here that for making ad hoc/stop gap arrangement, no provision for holding meeting of the DPC has been prescribed. Law in this regard has already been settled.

5. Be that as it may, the sole point in the present O.A. filed by the applicant is that he should have been promoted under the Physically Handicapped quota as per the direction of this Tribunal contained in the order dated 22.5.2000, as referred to earlier. On our query, the learned counsel for the Respondents has clarified the matter stating that the reversion of the applicant from the scale of IIT was necessitated as he along with others was promoted against the vacancies earmarked for direct recruitment for the recruitment year prior to 2000-01. The Central Board of Direct Taxes by its letter dated 26.11.2001 had directed the subordinate units not to treat the unfilled direct recruit vacancies for earlier years as promotion vacancies for the year 2000-01. Further, that consequent upon restructuring

of the cadres in the Department, the existing vacancies were bifurcated between the recruitment year 2000-01 and 2001-02. Consequently, the vacancies occurring in the grades of I.T.O. and I.I.T. had to be bifurcated accordingly. This necessitated preparation of separate review panel for promotion for the recruitment years 2000-01 and 2001-02.

As a result, the total number of promotion to the grade of I.I.T. got reduced from 54 to 41 for the year 2000-01 and it is in this circumstance that the applicant who was earlier promoted from the panel of the recruitment year 2000-01 had to be reverted and thereafter promoted again from the recruitment panel of 2001-02. They have further disclosed that the promotion of the applicant made during the recruitment year 2000-01 had been made adjusting him under Physically Handicapped quota and against point number 1 in the cycle of 100 points against a regular vacancy. From the above submissions made by the Respondents, the grievance of the applicant, as canvassed before us during the oral arguments, stands redressed in all

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respects and therefore, nothing survives in this O.A. for further adjudication. The applicant's allegation that his reversion by the order under Annexure-2 was illegal lacks merit in view of the clarification submitted by the Respondents as referred to earlier.

6. In the result, this O.A. is disposed of, being infructuous.

No costs.

*Chand*  
11/05/08  
(M.R.MOHANTY)  
JUDICIAL MEMBER

*B.N.SOM*  
(B.N.SOM)  
VICE-CHAIRMAN