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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTAC

ORIGINAL APPLICATION NO. 272,345 AND 344 of 2002
Cuttack, this the 2nd day of March, 2005.

CORAM:-

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

O.A.No.272/2002.

ULLASH CHANDRA ROUTRAY,
Aged about 54 years,
Son of Late Dibyasigh Routray,
At present working as Sr.Tax Assistant,
O/O the Commissioner of Income Tax (Computer),
Revenue Building, Rajaswa Vihar, Bhubaneswar.

..... Applicant.

By legal practitioner:- M/s.Laxmidhar Dash,
Srikanta Mohanty, P.P.Dash,
Advocatdes.

-VERSUS-

1. Union of India represented by the Chairman, Central Board of Direct Taxes, North Block, New Delhi-110 001.
2. Chief Commissioner of Income Tax, Orissa, Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar.
3. Gangadhar Rout, Sr. Tax Assistant, Office of the Chief Commissioner of Income Tax, Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar-4.
4. Bhikari Mohanty, Sr. Tax Assistant, O/o. the Chief Commissioner of Income Tax, Ayakar Bhawan,



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- Rajaswa Vihar, Bhubaneswar -4.
5. Muralidhar Dash,
O/o. the Jt. Commissioner of Income Tax,
Range-III, Cuttack, Arunodaya Market,
Po/Dist.- Cuttack.
6. Madhusudan Patra,
Office of the Jt. Commissioner of Income Tax,
Range-II, Bhubaneswar, Ayakar Bhawan,
Rajaswa Vihar, Bhubaneswar-4. Respondents.

By legal practitioner:- Mr. A.K. Bose, S.S.C.

O.A.No.345 of 2002.

Ullash Chandra Routray, aged about 54 years,
S/o. Late Dibyasingh Routray, at present working
As Sr. Tax Assistant, O/o. the Commissioner of Income
Tax (Computer), Revenue Building, Rajaswa Vihar,
BHUBANESWAR. Applicant.

By legal practitioner:- M/s. Laxmidhar Das,
Srikanta Mohanty,
P. Dash, Advocates.

-VERSUS-

1. Union of India, represented by the Chairman, Central Board of Direct Taxes, North Block, New Delhi-110 001.
2. Chief Commissioner of Income Tax, Orissa, Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar-14.
3. Shri Krushna Chandra Barik, Sr. Tax Assistant
O/o. the Income Tax Officer, Bhadrak,
At/Po/Dist.- Bhadrak. Respondents

O.A.No.344 of 2002.

SHRI SRIKANTA MOHANTY, aged about 57 years,
Son of Sri Radhakanta Mohanty,
Village and Post- Arjunapur,
PS- Patkura, Dist- Kendrapara,
At present working as Section Assistant, in the
Office of Joint Commissioner, Income Tax,
Range-III, At/Po- Arunadayanagar,
DIST. CUTTACK. Applicant.

By legal practitioner:- Mr.R.C.Mohanty,Advocate.

-VERSUS-

1. Union of India ,Ministry of Finance,
Department of Revenue,Cetral Board of
Direct Taxes,Directorte of Organisation and Management
Services represented through the Chairman(DF) and Member
(CBWP) AT- and Post:-New Delhi.
2. Chief Commissioner of Income Tax,Orissa,
Aayakar Bhawan,Rajaswa Vihar, Bhubaneswar.
3. Sri K.K.Prasad,Senior T.A. Office of the Joint Directorate
Of Income Tax (Investigation),Aayakar Bhawan,Rjaswa
Vihar,Bhubaneswar-751 004,Dist.Khurda
4. M.C.Muduli,Senior T.A.
JointCommissioner of Income Tax, Rourkela
At/Po-Rourkela,Dist-Sundergarh.
5. G.D.Rout,Senior T.A.
Office of Commissioner of Income Tax,
Ayakar Bhawan,Rjaswa Vihar,
Bhubaneswar-751 004,Dist.Khurda.
6. Bhikari Mohanty,Senior T.A.
Office of the Chief Commissioner of Income Tax,
Orissa,AAYakar Bhawan,Rajaswa Vihar,
Bhubaneswaar-751 004,Dist.Khurda.
7. M.D.Das,Senior Tax Assistant,
Office of Joint Commissioner of Income Tax,
Orissa,Aayakar Bhawan,Rajaswa Vihar,
Bhubaeswar-751 004,Dist.Khurda.
8. M.S.Patra,Senior Tax Assistant,
Office of Joint Commissioner of Income Tax,
Aayakar Bhawan, Rajaswa Vihar,
Bhubaeswar-751 004,Dist.Khurda. Respondents.



By legal practitioner:-Mr.B.Dash,A.S.C.

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O R D E R

MR. MANORANJAN MOHANTY, JUDICIAL MEMBER:

Since in all the three Original Applications, the point to be decided arises out of common cause of action and facts being one and the same, this common order will govern the service benefits of all the Applicants in the abovementioned Original Applications.

2. Applicants working as Sr. Tax Assistants (in short STA) in the Income Tax Department of the Orissa Region have prayed for issuance of direction to the Respondents Department to accord them promotion to the post of Office Superintendent (with effect from the date(s) the private Respondents arraigned in the respective Original Applications were promoted) by quashing the orders of promotions of the private Respondents and by treating them to be the juniors to the Applicants in the grade of U.D.Cs.

3. The facts of the cases are not in dispute. It is the case of the Respondents that the Applicants (having not qualified in the Departmental Examination for the post of Tax Assistants, earlier than the private Respondents; who were their juniors in the grade of UDCs) cannot be held Senior to private Respondents (for the purpose of promotion to Office



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Superintendent) since, as per the Recruitment Rules, the Applicants were not eligible for being considered. It is in this background, the Respondents have also denied that the Applicants could be seniors in the grade of STA vis-à-vis the private Respondents.

4. We have heard the learned counsel for the parties and perused the materials available on record. Apart from making submissions that they are senior to private Respondents, the Applicants have not produced any materials to substantiate their said stand. We have also gone through the relevant recruitment rules for promotion to the grade of Office Superintendent from S.T.A; which reads as under:-

“CATEGORY-‘A’.

Sr.T.A. with at least two years of service as Assistant/Head clerk”

5. It is the categorical stand of the Respondents, which have not been refuted by the Applicants, that they having not held the post of Sr. T.A. as on 01-01-2001 (i.e. the eligibility date for the year 2001-2002) nor having completed two years of service in the grade of Head Clerk/Assistant by that date, they could not be considered by the Departmental Promotion Committee for promotion to the grade of Office Superintendent.

6. We have considered the rival submissions made by the parties and perused the materials placed on record. Admittedly, the promotion is



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guided by the relevant Rules giving priority on the length of service and/or seniority in the feeder grade. The Applicants, in the Original Applications, have not made any specific plea alleging violation of the provisions of the Recruitment Rule (by the Respondents) while giving consideration to the cases of private Respondents (for promotion to the grade of Office Superintendent) nor have they made the matter more conspicuous by raising the question of malafides/oblique intention of the Respondents in the matter of giving consideration to their cases. There being no violation of Recruitment Rules and/or the application of Recruitment Rules in cases of the Applicants (which has not been called in question) this is hardly a matter that warrants interference by this Tribunal. In the circumstances, the citations relied by the Applicants are hardly of any assistance to the cases in hand.

7. With regard to specific prayer of the Applicant in O.A.no.344 of 2002 for direction to modify the guidelines for promotion to the post of Office Superintendent for the year 2001/2002 ,we do not find any substantial reasons to do so. In the result, these three Original Applications are dismissed being devoid of any merit. No costs.

Sd/- B. N. SOM
Vice-Chairman

Sd/- M. R. Mohanty
Member (Jd)

JUDICIAL MEMBER



TRUE COPY

Section Officer
Central Administrative Tribunal
Cuttack Bench, Cuttack