


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.


Original Application No. 49 of 2006  
Cuttack, this the 22<sup>nd</sup> day of September, 2008

Kishor Chandra Patnaik ..... Applicant  
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?

  
(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A.No.49 of 2006

Cuttack, this the ~~22nd~~ day of September, 2008

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)  
A N D  
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Sri Kishor Chandra Patnaik, S/o.Late Govind Chandra Patnaik, At-  
Anand Vihar, Sarbahal, Post/Dist. Jharsuguda, 768 201.

.....Applicant

Legal practitioner :Mr.P.K.Padhi, Counsel.

- Versus -

1. Union of India represented through Secretary Cum Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, At/Po.Bhubaneswar, Dist. Khurda-751 001.
3. Director of Postal Services (Hqrs.), O/O. the Chief Post Master General (Orissa Circle), Bhubaneswar 751 001.
4. Superintendent of Post Offices, Sambalpur Division, Sambalpur 768 001.

....Respondents

Legal Practitioner :Mr.R.N.Mishra, ASC.

O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

Order under Annexure-A/7, dated 08.09.2006 cancelling the order dated 01.10.2003 in which the Applicant was allowed notional promotion to LSG (Acct) is assailed by the Applicant in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985 seeking further direction to the Respondents to treat the applicant as deemed to have been promoted w. e. f. 22.07.1996.

2. The background of the case is that the Applicant entered to the service of the Department of Posts on 20.06.1974 as Postal Assistant. Subsequently, on

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being qualified in the PO & RMS Accounts Examination, he joined as Accountant on 17.12.1982 at Bargarh Head Post Office and continued to work in different Head Post Offices and Postal Store Depot of Sambalpur Division till 22.11.1990. After completion of 26 years of service, he was promoted to BCR scale vide Memo dated 27.08.2001 fixing his pay at Rs.6200 as on 01.07.2000 in the time scale of pay of Rs.5000-150-8000/-. According to Applicant in spite of his promotion to LSG post w.e.f. 20.06.1990 under Annexure-A/1 dated 01.10.2003 he was shown to have been promoted to the cadre of LSG (Accounts) cadre against norm based post notionally w.e.f. 01.03.2001. While the matter stood thus, without disciplinary proceedings or even without giving opportunity in compliance of natural justice, vide order under Annexure-A/2 dated 23.10.2003 the order of promotion of the Applicant to the cadre of LSG (Accounts) in Annexure-A/1 was kept in abeyance as also changed the effective date of notional promotion of Applicant from 22.7.1996 to 30.05.2001. Subsequently, in Annexure-A/3 dated 28.06.2004, the Applicant was given promotion to the cadre of LSG (Accounts) notionally w. e. f. 30.05.2001. In Annexure-A/4 dated 20<sup>th</sup> July, 2004 Applicant was approved for posting against norm based post of APM A/Cs and allotted to Jharsuguda HO which he declined in his representation under Annexure-A/5 dated 23.07.2004. Being aggrieved by the order keeping his promotion in abeyance and subsequently giving him promotion w.e.f. 30.05.2001, he submitted representation under Annexure-A/6 dated 30.07.2004 to Respondent No.2 through Respondent No.4 but the Respondent No.4 without any show cause in compliance of natural justice and without due application of mind cancelled his earlier order of promotion under Annexure-A/7 dated 01.10.2003. Hence this OA with the aforesaid prayer.

3. It is maintained by the Respondents in their counter that the applicant was transferred and posted as APM Accounts, Sambalpur HO vide SPOs, Sambalpur

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Memo No. B/G-18/2002/Ch.Vi dated 20.07.2004 with direction to join there by 31.07.2004 But the Applicant declined promotion vide representation dated 23.07.2004. The order of notional promotion dated 01.10.2003 which was kept in abeyance vide SPOs, Sambalpur dated 23.10.2003 was cancelled vide Memo dated 08.09.2004.

4. Learned Counsel appearing for the parties have reiterated their stand taken in the pleadings. Having heard them, we have perused the materials placed on record.

5. Even on microscopic examination of the contentions raised in the counter, we find no substantiating reason not to speak of adequate substantiating reason in the counter for keeping the order of promotion of the Applicant to LSG (Accounts), in abeyance under Annexure-A/2 and the cancellation made under Annexure-A/7. The reasons shown in the counter is that the applicant was transferred and posted as APM Accounts, Sambalpur HO vide SPOs, Sambalpur Memo No. B/G-18/2002/Ch.Vi dated 20.07.2004 with direction to join there by 31.07.2004. But he declined such promotion and transfer vide representation dated 23.07.2004. As such, the order of notional promotion dated 01.10.2003 which was kept in abeyance vide SPOs, Sambalpur dated 23.10.2003 was cancelled vide Memo dated 08.09.2004. This does not appeal to the judicial conscience; because earlier the Applicant was given notional promotion to LSG cadre whereas the order under Annexure-A/4 merely shows the posting of the Applicant to norm based post of APM A/Cs. Therefore, declination as made by the Applicant under Annexure-A/5 ought not to have washed away the existing rights accrued to him earlier and that too without complying with the principles of natural justice. Therefore, viewed the matter from any angle, the order under Annexure-A/7 is not sustainable. Hence, the same is hereby quashed and as a consequence, the Applicant is entitled to the benefits of promotion to LSG (Accounts) earlier granted to him.

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6. In the result, this OA stands allowed. There shall be no order as to costs.

Thankappan

(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

Mohapatra

(C.R. MOHAPATRA)  
MEMBER (ADMN.)

KNM/PS