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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.38 OF 2002
Cuttack, this the 26th Day of February, 2008

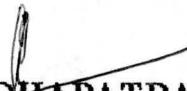
Nandalal Bose Applicant

Vs.

Union of India & Others Respondents

FOR INSTRUCTIONS

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


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


(M.R. MOHANTY)
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.38 OF 2002
Cuttack, this the 26th Day of February, 2008

CORAM:

**Hon'ble Shri M.R. Mohanty, Vice-Chairman
Hon'ble Shri C.R. Mohapatra, Member(A)**

.....

IN THE CASE OF:

Mr. Prasanta Kumar Panda, aged about 45 years, S/o. Late Jutibahan Panda, at present working as Upper Division Clerk, in the Office of the Commissioner of Central Excise & Customs, Bhubaneswar-1, Commissionerate, Rajaswa Bihar, Bhubaneswar, Dist-Khurda.

..... **Applicant**

By the Advocate(s) **M/s.A.K. Misra,
J. Sengupta,
D.K. Panda,
P.R.J. Dash,**

Vs.

1. Union of India represented thorough the Secretary, Govt. of India, Ministry of Finance, Department of Revenue, New Delhi-110 001.
2. Commissioner of Central Excise & Customs, Bhubaneswar-1, Commissionerate, Rajaswa Bihar, bhubaneswar.
3. Chairman, Central Board of Excise & Customs, New Delhi.
4. Shri Bholanath Majhi, Tax Assistant, O/O. The Commissioner, Central Excise and Customs, Bhubaneswar-1, Commissionerate, Bhubaneswar, Dist-Khurda.

..... **Respondent(s)**

By the Advocate(s).....**Mr. U.B. Mohapatra, (SSCG)**

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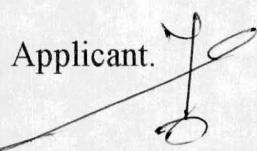
O R D E R

SHRI M.R. MOHANTY, VICE-CHAIRMAN

Being aggrieved by the earlier promotion of Respondent No.4, the Applicant (who is working as Upper Division Clerk in the Office of the Commissioner of Central Excise of Custom at Bhubaneswar-1 Commissionerate at Bhubaneswar) has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking directions to the Respondents (a) to promote the Applicant to the rank of UDC w.e.f. 3.9.1991 (b) to consider the case of the Application for the post Spl. Pay U.D.C. and Tax Assistant w.e.f. the dates when OP No. 4 was promoted to such rank and to promote him to Spl. Pay U.D.C. and Tax Assistant retrospectively with all service and financial benefits and (c) to consider the case of petitioner for the post of Inspector in future vacancy.

2. Respondents have filed their counter stating therein that the promotion of the Applicant to the Post of LDC has already been antedated to 08.10.1985 i.e. the date when Resp. No.4 was promoted to the said post . But as regards to the promotion to the UDC and Tax Assistant, it has been clarified (in the counter) by the Respondents that the Resp. No.4 (a ST candidate) was promoted at an earlier point of time (as against a S.T. vacancy) than the

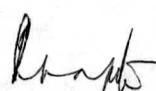
Applicant.

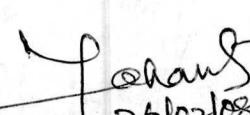


3. Heard Ld. Counsel appearing for both the parties and perused the materials placed on record.

4. The issues involved in this case is no more res-integra. An S.T. candidate can get superseding promotion as against a S.T. vacancy. The Applicant/ Ld. Counsel for the Applicant has not been able to substantiate that the vacancy against which promotion was given to the Resp. No.4 was not an ST vacancy. Since reservation in promotion is a Constitutional requirement we find no illegality or irregularity in the matter of granting promotion of Resp. No. 4. and, therefore, there are no reason to direct the Respondents to consider the case of the Applicant retrospectively to grant him promotion from the date of promotion of the Respondent No.4.

5. In view of the above, we find no merit in the Original Application, which stands dismissed. There shall be no order as to costs.


C.R.MOHAPATRA)
MEMBER(ADMN.)


26/02/08
(M.R.MOHANTY)
VICE-CHAIRMAN