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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 1064 of 2002
CUTTACK, THIS THE ^{3rd} DAY OF March, 2005

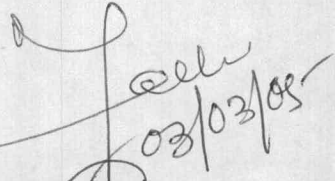
K.N.Gouda and others Applicants

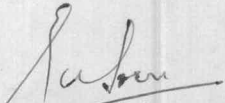
-VERSUS-

Union of India and others Respondents

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK

ORIGINAL APPLICATION NO. 1064 of 2002
CUTTACK, THIS THE 3rd DAY OF March 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

...

1. Kesabananda Gouda, 53 years, Tax Assistant, At/Post Patia, Bhubaneswar.
2. Prasanta Kumar Panda, 46 years, Son of late Jutibhaana Panda, Tax Assistant.
3. Sudhakar Behera, 50 years, Son of late Satyabadi Behera, U.D.C.
4. Subash Chandra Acharya, 47 years, Son of late Banamali Acharya, U.D.C.
5. Santiranjan Jena, 46 years, son of late Gajendra Jena, U.D.C.
6. Raju Das, aged about 49 years, son of D.Das, U.D.C.

All the petitioners are working in the office of the Commissioner of Central Excise and Customs, Bhubaneswar Commissionerate, Rajaswa Bihar, Bhubaneswar. Applicants.

Advocates for the applicants

.... M/s. A.K.Mishra,
J.Sengupta,
P.R.J.Dash,
D.K.Panda &
G.Sinha.

Versus:-

1. Union of India represented through Secretary, Ministry of Finance, Department of Revenue, North Block, New-Delhi.
2. Chairman, Central Board of Excise and Customs, New-Delhi.
3. Commissioner, Central Excise and Customs, Bhubaneswar-1.
4. Commissioner, Central Excise and Customs, Bhubaneswar-II.
5. P.N.Mohanty, Inspector of Central Excise and Customs, Bhubaneswar-I Range, Rasulgarh, Bhubaneswar,

..... Respondents

Advocates for the Respondents

..... Mr.U.B.Mohapatra,
(Sr. SC)

.....

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This O.A. has been filed by Shri Kesabananda Gouda and five others who were working as Tax Assistant/UDC in the office of Commissioner, Central Excise and Customs Bhubaneswar-I and Bhubaneswar-II, seeking a direction to be issued to the Respondents to consider their cases for promotion from the date when Respondent No.5 was promoted to the rank of Inspector of Central Excise and Customs and to allow them all service and consequential financial benefits retrospectively.

2. We have heard the Ld. Counsel for the applicant as also Senior Standing Counsel for the Respondents and have perused the records placed before us.

3. The controversy raised by the applicant is that Respondent Nos. 1 to 4 were under obligation to consider their cases for promotion to the grade of Inspector of Central Excise and Customs when Respondent No.5 was considered for promotion on the ground that Respondent No.5 was junior to the applicants in the rank of LDC/UDC, although the latter was given promotion to the higher post of Tax Assistant as well as to the post of Inspector of Central Excise and Customs. Their grievance also arose out of the order dated 3.3.94 by which the Deputy Collector, Central Excise and Customs, Bhubaneswar gave them the benefit of notional appointment in the grade of LDC from earlier dates, like, 26.9.84 to applicant No.1, 14.11.86 to applicant No.3, 3.4.87 to applicant No.5, 28.9.87 to applicant

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No.4, 26.6.94 to applicant No.6 and 8.10.95 to Prasant Kumar Panda.(applicant no 2).

4. The Respondents have filed their reply in counter.

5. We have also heard both the parties and have perused the record placed before us.

6. In the mean while, some other employees of the Respondent's department, namely, Shri Bholanath Majhi and 25 others working as Tax Assistant/UDC under Respondent Nos.3 and 4 had filed an O.A. 331/01 challenging the impugned order of the Respondents dated 3.3.94. The Tribunal after hearing the matter at length held that the notional seniority granted to the applicant Nos. 1, 3, 4, 5, and 6 was based on mistaken facts and due to non-application of mind on the rules and regulations framed in this regard and resultantly quashed the Government of India, Ministry of Finance, Department of Revenue letter No. A.23020/10/98-Ad.IIIA dated 5.3.99, whereby the Respondent No.3 was given direction by the Department of Revenue regarding fixation of notional seniority of the applicants and also the order dated 7.7.94 implementing the impugned order dated 3.3.94 (Annexure-1 of this O.A.). The Respondents were further directed that the seniority of the applicants in the O.A. 331/01 is to be revised/refixed on the basis of their respective length of service in the grade of UDC. The said decision of the Tribunal was issued on 7.1.05. All the applicants in this O.A. were also Respondents in the said O.A. 331/01.

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7. In view of the above decision of the Tribunal in O.A. No. 331/01, dated 7.1.05, nothing survives in this present O.A. for adjudication, which is accordingly disposed of, having become infructuous. No costs.

M.R. Mohanty
03/03/05

(M.R. MOHANTY)
MEMBER (JUCIALIAL)

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

RK/SD