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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 1111 of 2002
Cuttack, this the ^{22nd} day of June, 2005


Kashu Charan Ojha Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 75


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SAHA)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
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Original Application No. 1111 of 2002
Cuttack, this the *22nd* day of *June*, 2005

CORAM :

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

AND

HON'BLE SHRI M.R.MOCHANTRY, MEMBER (J)

.....

Shri Kanhu Charan Ojha, aged about 57 years, S/o. Late Bhabana Ojha, Gopalpur, Lalbag, P.S./Dist. Jajpur, now working as Assistant Post Master (S.B.), Jajpur.

..... Applicant

By the Advocates

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Ms. Mira Ghose,
M/s. N.S.Ghose,
J.Behera.

VERSUS

1. Union of India, represented through Director General, Department of Post, New Delhi, Dak-Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist. Khurda.
3. Senior Superintendent of Post Offices, Cuttack North Division, Cuttack-1.
4. Managobind Sarangi, aged about 57 years, S/o. Late Kanhu Ch. Sarangi, at present working as A.P.M.(Accounts), Jajpur Head Post Office, Jajpur.

..... Respondents

By the Advocate

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Mr. B.N.Udgata.

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN :

Shri Kanhu Charan Ojha, now working as Assistant Post Master (S.B.), Jajpur Post Office has filed this O.A. assailing the higher seniority position assigned to Respondent No.4 than him. He has further prayed that the order passed in O.A.No. 27/92 be declared not binding on him. He has also prayed for all other consequential benefits.

2. The grievance of the applicant in short is that Respondent No.4 and he had entered into service as Postal Assistant (PA in short) on the same date i.e. 12.11.64 but he was confirmed earlier than private Respondent No.4 on 16.7.66 whereas the later was confirmed on 1.3.67. None the less, both of them were upgraded to TBOP on the same date on 30.11.83 and HSG-II also on the same date, i.e., 1.10.91. In spite of that, the Respondent No.3 by issuing gradation particulars of "HSG officials (promoted under BCR Scheme as on 1.7.98" (Annexure-7)) had placed private Respondent No.4 at Sl.No.3 of that gradation list and his name at Sl.No.15 of the list. He had, thereupon, submitted several representations, the last one being on 20.1.02, to correct the inter se seniority between them but without any success. He, therefore, has now come up in this application before the Tribunal seeking redressal of his grievance. He has also submitted that Respondent No.4 had visited this Tribunal in O.A.No. 27/92 without making him a party and the Tribunal was pleased to allow the prayer of

the private Respondent No.4 by fixing his seniority taken into account the date of adhoc promotion as A.P.M.(Accounts) even though such adhoc promotion was not in accordance with the Rules/Circulars. The applicant has submitted that his seniority has been affected as a result of this decision. He should have been made a necessary party in the said proceedings, and, therefore, to protect his interest, he prays for appropriate order^{to} be passed by the Tribunal in this regard.

3. The Respondents have opposed the application on merit. They have stated that the applicant has mislead the Tribunal by putting the facts of the case in a wrong perspective. It is not denied by them that both of them were upgraded under TBOP/BCR Scheme on the same day, i.e., on 30.11.83 and on 1.10.91, respectively, but private Respondent No.4 was approved for regular promotion to LSG(~~Accountants~~) cadre with effect from 31.1.89, on the basis of his posting as Accountant with effect from 12.5.71. Further that the private Respondent had opted to be absorbed in the Accountant cadre for which he had cleared the departmental examination for the accountants. On the basis of his appointment as Accountant with effect from 12.5.71, he was promoted to LSG(~~Accountants~~) cadre with effect from 28.7.82 on adhoc basis and on regular basis with effect from 31.1.89. Thereafter, the Respondent No.4 had come in an O.A.No. 27/92 before the Tribunal claiming his seniority in LSG(Accounts) Cadre from the date of his continuous adhoc promotion. The Tribunal having upheld his application his promotion to LSG(~~Accountants~~) cadre was antedated to 3.6.82.

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Accordingly, he was placed at Sl.No.3 in the gradation list whereas the applicant was placed at Sl.No.15. They have thus justified the seniority list published by them as on 1.7.98. They have also filed an additional counter to show that the date of promotion of the applicant to LSG on regular basis took place with effect from 1.8.97 whereas Respondent No.4 was granted promotion in LSG(Accountants) cadre with effect from 3.6.82, and, therefore, Respondent No.4, on the date of retirement on 31.1.05 was holding a post in HSG-I. On the other hand, the applicant retired on 31.10.04 in the LSG cadre.

4. We have heard the Ld. Counsel for the rival parties and have perused the records placed before us.

5. The limited question in this O.A. is whether the inter se seniority position of the applicant and Respondent No.4 has been properly determined by the Respondents. Without going into the details of the facts of the case, it would suffice to say that the controversy raised by the applicant can be put at rest by stating that there is no case for comparing the seniority position of the applicant with that of the Respondent No.4. Admitted fact of the case is that the applicant had all along, till his retirement, remained in the General Line of Post Office. On the other hand, Respondent No.4 although had started his career in General Line of Post Office had branched off to Accountants cadre way back in 12.5.71 after qualifying in departmental exam of PO/RMS

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Accountants. Thereafter, both of them belonged to two different cadres of General Line and Accounts Line, enjoying separate promotional avenues. We find that the said controversy spawned out of the promulgation of gradation list of so called HSG-II (BCR official as on 1.7.98) (Annexure-7), published by the Respondents. We find fault with this gradation list for more than one reasons. Firstly, the BCR Scheme being separate from regular statutory promotion from PA to LSG to HSG-II etc., it was conceptually wrong to have a promulgated list of BCR officials. Needless to say that TBOP/BCR are schemes and not promotion grades and as the benefit under these schemes are granted on personal basis, no change takes place in seniority in the substantive cadre and the question of preparation of gradation list of TBOP/BCR officials does not arise at all. By virtue of their letter 137-18/2001-SPBI, dated 23.4.2001 relied upon by this Bench in O.A.No. 329/2000, the Respondent department has already stated that until a PA/SA gets promotion to LSG or HSG-II grade, they will be identified as PA(TBOP) or PA(BCR) and no change in seniority will ever take place consequent upon grant of TBOP/BCR benefit. Further, Respondent No.4 having opted out for Accountant grade, and, he having been granted regular promotion as LSG(Accountant) with effect from 3.6.82, it is not understood how his name was retained by the Respondents in the list of General Line officials. It appears that it is because of the mismanagement of the personnel matter on the part of the Respondents, the

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applicant was driven to litigation. Normally, we would have liked to impose cost on the State for being responsible for meaningless litigation. However, we let the Respondents off with the warning to rectify the mistake sooner than later so that unsuspecting officials are not driven to infructuous litigation.

6. A copy of this order be send to Respondent No.1 for taking suitable remedial action for implementing our direction.

7. Accordingly, the O.A. is disposed of with the above direction. No costs.

M.R. Mohanty
22/06/08
(M.R. MOHANTY)
MEMBER (JUDICIAL)

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(B.N. SOM)
VICE_CHAIRMAN

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