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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1209 OF 2002
CUTTACK THIS THE 08th DAY OF December '2005

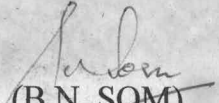
T.ANANTHA RAO ... APPLICANT

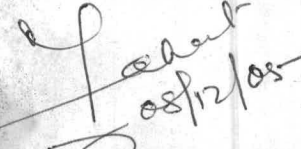
-VERSUS-

UNION OF INDIA & ORS. RESPONDENTS

FOR INSTRUCTIONS

3. Whether it be referred to reporters or not? *yes*
4. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *yes*


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER(JUDICIAL)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.1209 OF 2002
CUTTACK THIS THE 08th DAY OF December 2005

CORAM:

**THE HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)**

...

Sri T. Anantha Rao, Aged about 61 years,
Son of Late T. Srihari, retired as CBM under
Sr. Divisional Mechanical Engineer, S.E. Rly.,
Khurda Road at present residing at Balichak Shi,
Khurda Road, PO: Jatni, Dist. Khurda-50.

...Applicant

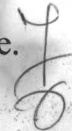
By the Advocates : Mr. Achintya Das, Advocate.

-VERSUS-

1. Union of India service through General
Manager, S.E. Railway, Garden Reach, Kolkata-43.
2. Member Staff, Railway Board, Rail Bhavan, New Delhi.
3. Chief Personnel Officer, S.E. Railway, Garden Reach, Kolkata-43.
4. Divisional Railway Manager, S.E. Railway, Khurda Road, Po: Jatni,
Dist. Khurda-50.

...Respondents

By the Advocates : Ms. S.L. Patnaik, Advocate.



O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL):-

The grievance of the Applicant, in this Original Application (under section 19 of the Administrative Tribunals Act, 1985) is that, although he was placed in the grade of CMF carrying the scales of pay of Rs. 6,500 – 10,500/- vide order dated 30-12-1999 under Annexure-A/2, he was not allowed to draw his pay in the said scale and that he was allowed to draw the pay in the scale of Rs. 5,000 – 8,000/- (whereas his similarly placed colleague named B.Srinivasulu, although retired from service w.e.f. 30-06-2001, was allowed the scale of pay of Rs. 7450-11,500/- w.e.f. 01-03-1993 to 30-06-2001 under Annexure-A/5) and that no heed have been paid (to his grievance) by the Respondents.

2. Respondents have filed a counter stating therein that the Applicant initially joined the Railways as a Khalasi on 06-07-1962; thereafter, promoted as Trained BTM on 18-06-1976; promoted as Gr.III Boiler Maker on 14-07-1978 and, thereafter, having been successful in the departmental examination, he was posted as Chargeman Boiler Maker (CBM) on 13-06-1985 in the Loco Shed at Khurda in Mechanic Department (in the scales of pay of Rs. 1400-2300/-, which was revised to Rs. 5,000-8,000/-)of the Railways. It has been stated by the Respondents that as the Applicant was not coming within the zone of



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consideration, he was not allowed promotion earlier when Pydithali and Mangaraj were promoted. It has been disclosed that the Applicant, along with 67 surplus staff were redeployed in Carriage Department (against existing vacancies of Carriage Wing) but they were not promoted against any existing vacancies. It is stated that their seniority were maintained in Carriage Department and, that although the Applicant was posted in Carriage Department, he was continuing under the Chief Crew Controller of Khurda Road in the pay scale of Rs. 5000-8000/-. It has been disclosed that Srinivas Rao and the Applicant are the surplus staff of different skill and that their channel of promotion are different. It has been clearly submitted by the Respondents that the Applicant was neither promoted nor posted against the promotional post. It has also been disclosed that as Shri Rao was eligible for promotion; on consideration of his case, he was allowed such benefits retrospectively; which has nothing to do with the case of the Applicant.

3. Applicant, by filing rejoinder, has pointed out that since, in the order, the Applicant was shown to have been posted in higher scale of pay, he is entitled to get the benefits.

4. We have heard Mr. Das, learned counsel appearing for the Applicant and Ms. S.L.Patnaik, learned counsel appearing for the Respondents and perused the materials placed on record.

5. Learned counsel appearing for the Applicant, by drawing our

attention to Annexure-A/2 dated 30-12-1990, has stated that since the Applicant was ordered to work in the scales of pay of Rs. 6,500-10,000/- he is entitled to get his pay in the said scale and that by no stretch of imagination it can be denied to him.

6. On the other hand, learned counsel appearing for the Respondents, by producing the copy of the service book, has submitted that the Applicant was never promoted under Annexure-2. He was only adjusted in the same scales of pay and that merely because of the mistake (which crept into the order, with regard to the scale of pay), the Applicant cannot claim the higher benefit; as there was no order promoting the Applicant to higher post/scale. The Applicant having kept quiet for such a long time even without getting the benefits of higher pay scale, he is estopped to raise his grievance long after his retirement in the year (31.03) 2001.

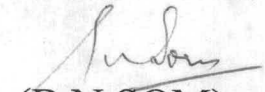
7. We have given our anxious consideration to various submissions made by the parties. We have seen that the Applicant (when denied the scale of Rs. 6,500-10,000/-) did not make any grievance/representation to his authorities. He also did not make any grievance immediately after his retirement. When benefits accrued in favour of Shri Rao, in the year 2002, the Applicant raised his voice. Law of estoppel, therefore, stands on his way.

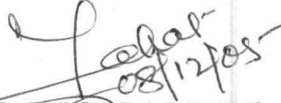


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8. That apart it is the specific case of the Respondents that both of them are of different cadre/Skills and that their promotional avenues, also , are different to each other and that the Applicant was not coming within the zone of consideration, for promotion, till his retirement.

9. In the above view of the matter, we find no merit in this case; which is accordingly, dismissed. There shall be no order as to costs.


(B.N.SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER(JUDICIAL)