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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 98 OF 2002
Cuttack this the 15th day of feb 2005

Manoranjan Sahoo ... Applicant(s)

- VERSUS -

Union of India & Ors. ... Respondent(s)

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 ? *✓*

(M.R.MOHANTY)
MEMBER (JUDICIAL)

18/02/05

(B.N. SONI)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.98 OF 2002
Cuttack this the 15th day of Feb. 2005

CORAM:

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

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

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Sri Manoranjan Sahoo, aged about 40 years
S/o. late Kartika Sahoo - at present working
as Offset Machine Attendant, Postal Printing
Press, Mancheswar Industrial Estate,
Bhubaneswar, Dist. Khurda

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Applicant

By the Advocates

M/s. K.C. Kanungo
S. Behera
R.N. Singh

- VERSUS -

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1. Union of India represented through Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-1
 2. Chief Post Master General, Orissa Circle, Jawaharlal Marg, Bhubaneswar, Dist. Khurda
 3. Manager, Postal Printing Press, Mancheswar Industrial Estate, Bhubaneswar-10, Dist. Khurda

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Respondents

By the Advocates

Mr. U.B. Mohapatra, SSC

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O R D E R

MR. B.N.SOM, VICE-CHAIRMAN: Applicant (Shri Manoranjan Sahoo) at present working as Offset Machine Attendant, Postal Printing Press, Bhubaneswar, has filed this O.A. alleging mala fide and arbitrariness on the part of the Respondents. Department reverting him to the post of Labourer vide Annexure-7 dated 26.2.2002. The applicant has assailed the order of reversion being issued without any rhyme or reason/has been issued almost after 11 years

of his uninterrupted tenure in the post of Offset Machine Attendant on ad hoc basis. He has also alleged discriminatory treatment^{meted out} to him. It is in this background, he has prayed for the following reliefs :

"... to quash Annexure-7 to the extent the applicant is concerned for the ends of justice and to direct the Respondent to consider the applicant's promotion to the post of Offset Machine Attendant on regular basis forthwith".

2. The applicant in the instant O.A. is before this Tribunal in the second round of litigation. He had earlier approached this Tribunal in O.A.799/96, which was disposed of on 6.11.1996 with a direction to Respondents, particularly Res.3 to dispose of the applicant's representation pending before him and to invite him for a trade test, if any, for considering him for regularisation. The grievance of the applicant is that although he was called for the trade test for promotion to the post of Offset Machine Attendant, the result of that test had not been announced. Representation made by him in this regard did not yield any fruitful result. The applicant, by referring to Recruitment Rules, 1990 for Group C and D posts has claimed that in terms of the provision laid down therein, after the trade test, he should have been given promotion, because, a post did exist to accommodate him. While he was awaiting for regularisation as a departmental candidate in 1997, the Respondents, deliberately recruited one Shri Kamelesh Pradhan from the open market. It is his case that no direct recruitment should have been taken place as earlier it had decided that vacancies arising after 1990 were to be filled up by promotion only.



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The main thrust of the applicant's grievance is that although he is eligible to hold the post against promotion quota, he has not been considered for regular promotion in pursuance of Annexure-2 dated 11.12.1996.

3. The Respondents have resisted the claim of the applicant by filing a detailed counter. They have submitted that in pursuance of the decision of this Tribunal dated 6.11.1996 in O.A.No.799/96, Manager, Postal Printing Press, Bhubaneswar, had given the liberty of personal hearing to the applicant, but he did not cooperate with the administration. Further that he was again given a chance to exercise his option for promotion, but he did not make any change in his option for promotion. Accordingly, by issuing letter dated 28.1.1997, the Respondents explained the need for exercising option by the applicant on the ground that there are two channels of promotion to the higher post, i.e., (i) to the grade of Bindery Assistant and (ii) Machine Attendant. It was explained to him that by their letter dated 25.7.1995, the Respondents had/called for option to fill up the vacancies of Bindery Assistant/Machine Attendant only on adhoc/officiating basis, but the regular promotion was to be done in terms of the recruitment rules. The recruitment rules for promotion from the cadre of Labourer contemplates passing of the trade test. It was in this background, the applicant was asked to exercise his option either to be considered for promotion to the grade of Bindery Assistant or to the grade of Machine Attendant. He was also informed that there was



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no vacancy in the grade of Machine Attendant and therefore, if he would not change his option for promotion to the grade of Bindery Assistant, he might have to wait for long ^{time} to get promotion. They also informed him that it would be in his interest he should appear in the trade test for promotion to Bindery Assistant. As the applicant did not appear in the trade test/in pursuance of this letter, but preferred to submit another representation dated 4.2.1997, the latter replied again in detail vide letter dated 6.3.1997 (Annexure-R/2) which reads as under :

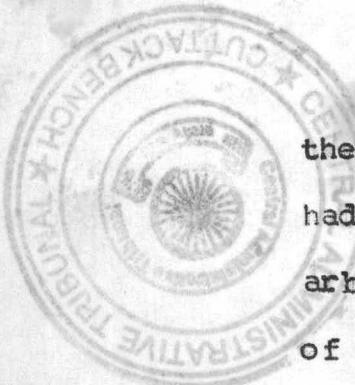


"...It is again to inform you that your case could not be considered for promotion to the grade of machine attendant as three numbers of officials are now officiating as machine attendant. One post is kept vacant, in which Sri Samar Singh is officiating as machine asst. and the post could be filled up when recruitment for the post of machine attendant would be done. The other two vacant posts would be filled up by 50% on promotion from feeder grade and other 50% by direct recruitment. So one post would be filled up by promotion for which there is another person in the feeder grade who is senior to you, who has appeared the trade test for machine attendant. He is likely to get the promotion and the other is for direct recruitment quota as per the recruitment rules. So you may be reverted to your original post of labourer as your promotion is adhoc in nature".

4. We have heard the learned counsel of both the sides and perused the records placed before us.

5. The grievance of the applicant centres found his claim that he is eligible for promotion to

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the grade of Machine Attendant and that the Respondents had disposed of the representation in a mechanical and arbitrary manner. We are not impressed by this argument of the applicant. We are convinced that the representation of the applicant was disposed of by the Res. No. 3 through a reasoned and speaking order.* They had also counseled him as to why he could not be promoted. It is because he was not senior enough for promotion under the seniority rules.

In the face of the fact that an eligible person senior to him was waiting for promotion, we are of the considered view that the applicant has not been able to make out a case for any of the reliefs prayed for by him. In the result, the G.A. being devoid of merit is dismissed. No costs.

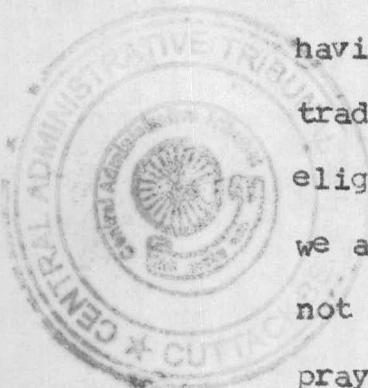
(M.R.MOHANTY)
MEMBER (JUDICIAL)

(B.N.SOM)
VICE-CHAIRMAN

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the grade of Machine Attendant and that the Respondents had disposed of the representation in a mechanical and arbitrary manner. We are not impressed by this argument of the applicant. We are convinced that the representation of the applicant was disposed of by the Res. No.3 through a reasoned and speaking order. They have also counselled him as to why he could not be promoted as Machine Attendant firstly, because, he was not senior enough and secondly, because, he had not passed the trade test. The applicant having not been able to refute that he had passed the trade test and in the face of the ~~fact~~ that an eligible person senior to him was waiting for promotion, we are of the considered view that the applicant has not been able to make out a case for any of the reliefs prayed for by him. In the result, the O.A. being devoid of merit is dismissed. No costs.



Lehan 18/02/84
(M.R.MOHANTY)
MEMBER (JUDICIAL)

BJY

R.S.
(B.N. SOM)
VICE-CHAIRMAN