

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 529 of 2008

Cuttack, this the 17th day of January, 2011

Dillip Kumar Padhi Applicant

-vs-

Union of India & Others Respondents

C O R A M:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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Applicant is a Senior Telephone Office Assistant

(General) working in the office of the Sub Divisional Engineer, Baliguda in the district of Kandhamal. By filing this OA the Applicant seeks direction to the Respondents 1 & 2 to antedate his date of promotion to the post of Sr.TOA (G) from 25.1.2008 to 31.5.2007 i.e. from the date his junior Respondent No.3 was promoted to the said post.

2. Respondents in their counter have stated that the Telecom Operating Assistant or Senior Telecom Operating Assistant is in the cadre of Secondary Switching Area (Telecom District). The conditions of service such as transfer, promotion etc of the employees continuing in the above cadre are confined only to the concerned Telecom District in which the employees

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9 are working. Promotion from TOA to Sr.TOA is given effect to from the gradation list maintained and vacancy available in the concerned Telecom District alone. Applicant is an employee of Phulbani Telecom District whereas Respondent No.3 belongs to Koraput Telecom District. The eligibility criteria for promotion to Senior TOA (G) are completion of four years of regular service in TOA cadre subject to availability of vacancy in the concerned Telecom District. A TOA cannot claim promotion after completion of four years if there exists no vacancy in the grade of Sr.TOA (G) in the Telecom District to which he/she belongs. As because the applicant is senior in the cadre of TOA or have completed the training at the same time, the applicant cannot claim promotion to Sr.TOA (G) from the date the Respondent No.3 was promoted as both of them belong to different seniority unit and their promotion and transfer etc. are governed separately. As there was no vacancy in the cadre of Sr.TOA (G) in the Phulbani Telecom District even though the applicant has completed four years prior to his date of promotion he was not promoted. While denying the assertion of the Applicant about the existence of the vacancy and total sanctioned strength etc. it was contended by the respondents that

as on 31.5.2007 the total cadre strength of Sr. TOA (G) cadre in Phulbani SSA was four. Hence on the retirement vacancy made available as on 1.11.2007 the case of the applicant was considered and accordingly he was promoted to the post of Sr.TOA and as vacancy in Koraput SSA was available Respondent No.3 was promoted earlier than the applicant. On the above line while the Respondents opposed the contention of the applicant made in this OA have prayed for dismissal of this OA.

3. Learned Counsel appearing for both sides have reiterated their stand taken in their respective pleadings and having heard them at length, perused the materials placed on record. Undisputedly there being two separate seniority unit and applicant and Respondent No.3 belong to different seniority units merely because Respondent No.3 was promoted earlier to Sr.TOA(G) applicant's claim to be promoted from that date does not sound logical. Hence the claim of the applicant is found to be illogical and is rejected. However, by producing copy of the letter dated 7/2010 [through memo dated 14.09.2010] the Applicant has tried to substantiate that though vacancy was existing as on the date he has completed four years he was

intentionally not given promotion to Sr.TOA (G). Learned ASC appearing for the Respondents expressed his inability to state anything on the letter produced by the applicant and stated that his instruction is that there was no vacancy and no sooner vacancy was made available the applicant was considered and promoted.

4. The controversy was with regard to availability of vacancy. Through counter Respondents have candidly stated that there was no vacancy and the total sanctioned strength of the cadre in Phulbani was four whereas through the aforesaid letter applicant was informed under RTI that the total sanctioned strength of the Phulbani SSA in the cadre of Sr.TOA(G) was seven and vacancy existed as on the date the applicant became eligible to be promoted. In view of the above, this OA is disposed of with direction to the Respondents to examine the matter with reference to the information supplied to the applicant under the RTI Act with regard to the total sanctioned strength in the cadre of Sr.TOA (G) in Phulbani SSA and availability of vacancy and if the information on the availability of vacancy as on the date the applicant became eligible to be promoted to Sr.TOA(G) is found to be correct, then to consider

antedating the date of promotion of the applicant to the date of the availability of the vacancy as per Rules. The entire exercise shall be completed within a period of 120 days from the date of receipt of copy of this order. No costs.

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(A.K.PATNAIK)
MEMBER (JUDL)

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