

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK.

ORIGINAL APPLICATION NO. 538 OF 1992  
Cuttack, this the 22nd day of March, 2004.

HON'BLE MR. JUSTICE V. S. AGGARWAL, CHAIRMAN  
HON'BLE MR. B. N. SOM, VICE-CHAIRMAN  
HON'BLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).



1. Udit Kumar Sahu, 42 years,  
S/o. Late Jagmohan Sahu,  
Baneigharh, Dist. Sundergarh,  
at present serving as Asst. Engineer,  
All India Radio, Rourkela.

Asok Kumar Patra, 42 years,  
S/o. Prasanna Kumar Patra of Matiaheda,  
PO: Dhangrisola, Dist. Mayurbhanj,  
at present Asst. Engineer, Doordarsan Kendra.

.... APPLICANTS.

(M/s. A. K. Mishra, J. Sengupta, P. R. J. Dash, D. K. Panda,  
C. Mohanty, and G. Sinha, Advocates)

- Versus -

1. Union of India, Ministry of Information  
and Broadcasting, New Delhi-110001,  
through its Secretary.
2. Director, General of All India Radio,  
Akashani Bhavan, New Delhi.
3. Director General of Doordarshan,  
Mandi House, New Delhi.

.... RESPONDENTS

(By Shri B. Dash, Additional Standing Counsel (Central)).

O R D E R (ORAL)

JUSTICE V. S. AGGARWAL:-



The Division Bench of this Tribunal at Cuttack keeping in view two contradictory orders passed by the Hyderabad Bench of this Tribunal and Lucknow Bench of this Tribunal, had referred the dispute to a Larger Bench. Resultantly, this Full Bench has been constituted.

2. The dispute fell within a very short compass. In fact, it was so fairly conceded at the Bar that there is presently hardly any dispute. Reasons are obvious and are not far to fetch.

3. Sub Rule-2(7)(b) of the Indian Broadcasting Engineering Service Rules, 1981 was the subject matter of controversy. The validity of the Rules had been challenged. Thus, arose the difference of opinion. While the Hyderabad Bench of this Tribunal in O.A. No. 960 of 1993 followed by a later decision in O.A. No. 185/96 upheld the validity of the said rules, the Lucknow Bench of this Tribunal in O.A. No. 218 of 1995 decided on 28th day of October, 2002 titled Ramesh Chander Nadir and others Vrs. Union of India & Others had expressed and held to the contrary.

4. During the course of submissions, our attention was drawn to the penultimate findings arrived at by the Apex Court arising from the decision of the Lucknow Bench. It came up for consideration in ~~the~~ <sup>the</sup> Appeal (Civil) No. 21643 of 2003 decided by the Apex Court on 5th December, 2003 titled ~~Ramesh Chandra~~ <sup>Ramesh</sup> ~~Chandra~~ <sup>Chandra</sup> ~~Nadir~~ <sup>Nadir</sup> and another Vrs. Union of India. We reproduce the order passed by the Apex Court which reads as under:-

\*Heard the learned Senior Counsel for the petitioners.

In the light of the view taken by this Court in *The State of Jammu and Kashmir Vs. Shri Triloki Nath Khosa and Others* (1974(1) SCC 19) no exception could be taken to the reasons assigned to reject the challenge to the amendment in question.

The learned senior counsel for the petitioners by relying upon some of the subsequent judgments contends that unless some relief in some other form to prevent the total stagnation of the claims for promotion, for the rest of their service career, is devised for mitigating such grievance there will be total impediment for any promotion resulting in an irreparable scar in the rest of their service career. Though the grievance may seem to be genuine but the remedy, if any, would lie with the department since they pertain to matters of policy and it is for the department to consider such claims appropriately. We leave liberty with the petitioners or their representative bodies to pursue the matter before the appropriate authorities, with those liberties left with the petitioners and the rejection of the SLP may not stand in their way in this regard this special leave petition shall stand rejected".





5. The findings are clear and require no interpretation. We have to follow the same like true findings. The Supreme Court in unambiguous terms have upheld the validity of the same. The right of the petitioners before the Apex Court is presently only restricted to submit a representation which can be considered in the light of the findings which we have reproduced above.

6. So far as the present petitioners are concerned, keeping in view what we have recorded above, also can represent afresh. We are informed that the petitioners have already represented. In the light of the subsequent events, they may submit a supplementary detailed representation which can be considered by the Respondents along with the representation of Ramesh Chander Nadir and another, referred to above. If such a representation is made within a fortnight from today, the Respondents shall consider the same effectively, within a period of four months from the date of receipt of the same.

7. Keeping in view of the aforesaid, it becomes unnecessary to express anything further. This Original Application is accordingly disposed of. No costs.

Sd/ M. R. MURPHY  
MEMBER (JUDGE)

Sd/ B. N. SOM.  
VICE-CHAIRMAN

Sd/ V. S. AGGARWAL  
CHAIRMAN

**TRUE COPY**

*[Signature]*  
22/11/11