

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH ALLAHABAD

T.A.No.197 of 1986.

Girja Shankar GuptaApplicant

Versus

Union of India & othersRespondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

This is a transferred case under sec. 29 of the Administrative Tribunals Act.

2. The applicant filed a Civil Suit in the Court of Munsif City, Kanpur praying that a decree for declaration be granted in his favour that he is entitled to the post of Tailor A Grade Line Mistry in view of his regular service w.e.f. 9.10.61 and the order dated 14.9.83 is bad in law and mandatory injunction be also issued directing the defendants/ respondents to promote the plaintiff/applicant to the post of Tailor A Grade Line Mistry including the plaintiff also in Factory order dated 8.7.83.

3. The applicant was engaged as Tailor -C from 10.10.62 to 31.12.72. Under CDS(RP) Rules, 1973, he was classified as Tailor -B w.e.f. 1.1.73 in the scale of 210-290. He was promoted to Tailor -A w.e.f. 16.7.79 in the scale of 260-350. Under the revised pay scales introduced w.e.f. 16.10.81, the grade of Tailors -A and B were merged in the scale of 260-400. He is now redesignated as Tailor (skilled) in the scale of 260-400. It appears that the applicant changed into regular employment w.e.f. 10.10.62 and he was duly informed that his seniority was to be determined with effect from the date of his regular employment and not from 9.10.61. The plaintiff/

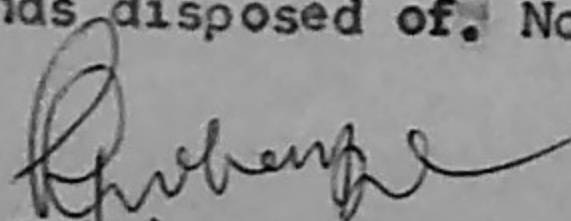
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applicant has not been in continuous service w.e.f. 9.10.61. It appears that the services of the applicant were terminated w.e.f. 7.4.62. He was re-employed w.e.f. 9.4.62 and thereafter after having been terminated w.e.f. 6.10.62 he was re-employed w.e.f. 10.10.62. It further appears that the persons who were junior to the applicant, were promoted to the post of tailor -A Grade Line Mistry but the applicant was denied this benefit, though according to the respondents no person junior to the applicant has been promoted and the applicant has not been superseded. The factory order dated 8.7.83 which has been challenged by the applicant, has been supported by the respondents and according to them it was not arbitrary. Dispute between the applicant and respondents appears to be as to whether the date of appointment should be taken as 9.10.61 or he was initially appointed in the year 1962. The case of the applicant is that of course the break was nothing but an artificial break and he was required to collect the dues and as such he was again appointed and the benefit of that period will be given to the applicant and the applicant is senior to various other persons and as such he was entitled to be promoted as the date of initial appointment is 9.10.61. According to the applicant, his appointment was on clear vacancy and consequently he could not have been designated and appointed on casual basis. One Sri Kamruddin holding Ticket No. 2838/L was also appointed as Tailor -C on 10.11.61 subsequent to the applicant on the so-called casual basis but he was confirmed on 7.5.62 i.e. much earlier vide Factory Order Part II No. 870 dated 10.11.66 and according to the applicant, this was against the principle of equity and antural justice as the said

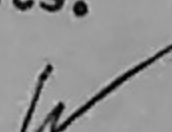
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Kamruddin was junior to him and so was in the case of Radhey Shyam holding Ticket No. 2854/L who was also employed subsequent to the applicant on the so-called casual basis against clear permanent vacancy in October, 1961 and he too was confirmed on 7.5.62.

4. The suit of the applicant was dismissed by the trial court and thereafter he filed an appeal and in the mean time, the Administrative Tribunals Act came into force and the case has been transferred to the tribunal. The trial court came to the conclusion that the appointment of the applicant was on casual basis and was not in continuous employment w.e.f. 9.10.61 and secondly his services will be counted from 10.10.62 and the applicant was not entitled to get the benefit of earlier period and as such we are also of the view that the applicant was not in continuous employment and as he started his services from 1962, he was not entitled to the benefit of earlier period. However, in case after break the benefit has been given to said Kamruddin and Radhey Shyam, the applicant's case will also be considered by the respondents and the same benefit will also be given to the applicant but in case, there was no break in their service, this benefit will not be given to the applicant. Let this matter be considered by the respondents within a period of three months from the date of communication of this order and they will pass necessary. With these observations, the application stands disposed of. No order as to costs.


MEMBER (A)

DATED: SEPTEMBER 3, 1992
(ug)


VICE CHAIRMAN.