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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.438 of 1986 (O.Suit No.310 of 1982)

Kehar Singh ... Applicant

Vs.

Union of India ... Respondent.

Hon.D.K.Agrawal, JM
Hon.K.Obayya, AM

(By Hon.D.K.Agrawal, JM)

Original Suit No.310 of 1982 instituted in the Court of Civil Judge, Agra and transferred to the Court of VI Addl.Civil Judge by the order of District Judge, Agra has been received on transfer in the Tribunal under the provision of S.29 of the Administrative Tribunals Act XIII of 1985. The facts giving rise to this suit are as follows.

2 The Plaintiff (hereinafter referred to as the Applicant) joined the service of the Defendant (hereinafter referred to as the Respondent) in the Ministry of Information and Broadcasting, Directorate of Field Publicity on the post of Field Publicity Assistant (for short FPA) in May 1962 and later on appointed on the post of Field Publicity Officer (for short FPO) in July 1965. He was, however, reverted by an order dated 20.7.1970 from the post of FPO to the post of FPA. Thereupon a suit was filed by the Applicant being suit no.41 of 1972 in the Court of Munsif Agra seeking a declaration that the order of reversion was illegal, null and void and the Applicant in the eye of law continued to be FPO. Arrears of salary were also claimed. The suit was decreed by

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II Addl.Munsif Agra on 26.7.1974. The Respondent preferred Civil Appeal No.196 of 1974, which was allowed ex-parte on 10.1.1977. The Applicant filed a Review Application listed as Misc.Case No.27 of 1977, which was allowed by an order dated 25.10.1977 and the judgment and decree passed in Suit no.196 of 1974 was reversed, i.e., the judgment of the learned Munsif was confirmed. The Respondent preferred F.A.F.O No.113 of 1980 in the High Court of Judicature at Allahabad which has been dismissed recently on July 26,1988. Meanwhile, the instant Suit was filed by the Applicant in the Court of Civil Judge Agra claiming two reliefs, firstly, a decree for a sum of Rs.37,000 and odd on account of arrears of salary plus interest and, secondly, for an injunction against the Respondent to pay salary and allowances of FPO to the Applicant in pursuance of the judgment and decree passed in Suit No.41 of 1972 confirmed by the first and second appellate Courts.

3. The contention of the Respondent is that the appointment of the Applicant as FPO was adhoc and that he was never selected for the post. In our opinion, the matter stands already adjudicated by the trial Court, first appellate Court and the second appellate Court. In view of the judgment of the High Court of Judicature at Allahabad in FAFO No.113 of 1980, referred to above, the point in issue becomes barred by principle of res-judicata. It has already been adjudicated upon that the order of reversion dated 20.7.1970 reverting the Applicant from the post of FPO to the post of FPA was illegal, null and void. The only question which is required to be answered is as to whether the Applicant is entitled to interest on the amount of salary due to him as a result of the judgment of Civil Court. From the foregoing facts,

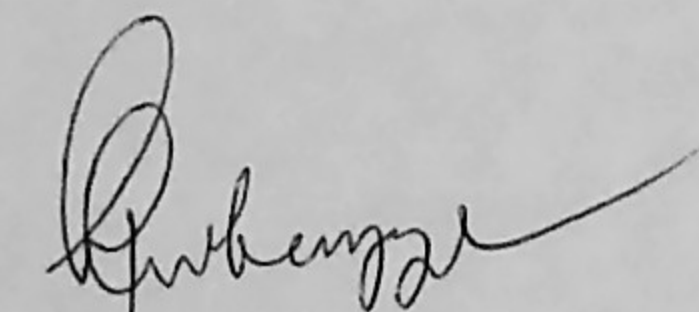
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it is obvious that the decree of the learned Munsif has been confirmed by the High Court only on July 26, 1988. Therefore, the delay, if any, in the payment of arrears of salary can be said to have occurred w.e.f. July 26, 1988. We also cannot ignore the fact that the present Suit was pending for adjudication and the Department might have chosen to wait for the decision of the present Suit. In the circumstances, we are of opinion that no advertent delay has been caused in rendering payment of the dues of the Applicant. Consequently, we are of opinion that no interest is payable on the amount of salary due to the Applicant as FPO. We are further of opinion that the amount of salary need not be quantified by us because there is no ^{un-}certainty about the grade or scale of pay of FPO. The Applicant has been paid the salary of FPA while the salary of FPO is due to him. Therefore, the difference is to be paid to him.

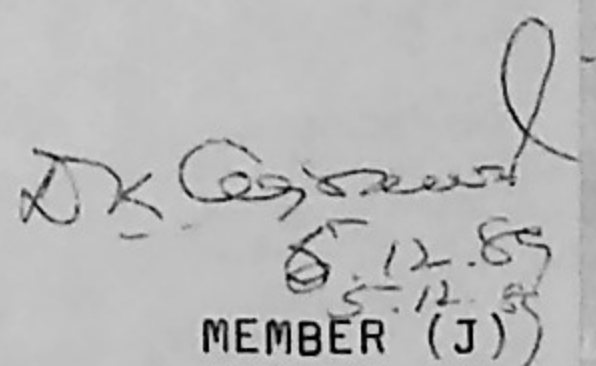
4. In view of the above discussion, we order that the Respondent shall settle the dues of the Applicant, i.e., arrears of salary as Field Publicity Officer, within 30 days hereof. If the dues are not settled within 30 days, the same will carry interest at the rate of 6 per cent per annum ^{on} ~~xxxxxxx~~ ^{after} the expiry of 30 days, a copy of this order is served on the Respondent by the Applicant outside the Court. Parties are directed to bear their own costs.



MEMBER (A)

Dated: 5th Dec 1989

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MEMBER (J)