

Central Administrative Tribunal, Allahabad.

Registration T.A.No.543 of 1987

Badri Nath

...

Applicant

Vs.

Union of India and others

...

Respondents

Hon.P.S.Habeeb Mohammad, AM

Hon. J.P.Sharma, JM

(By Hon.J.P.Sharma, JM)

The matter taken up today as it has been listed, though the case was fixed for 9.5.1990. The order sheets show that only once Sheo Kumar Singh, learned counsel for the Applicant appeared in 1988.

2. The Applicant is not present but he has filed the Suit in the Court of Small Causes Judge (Munsif) Bara Banki against the Union of India for the following reliefs :-

- a) that a decree for Rs.665 as detailed in paras 10 to 12 of the plaint be passed in favour of the plaintiff against the defendant and
- b) a decree for mandatory injunction be passed in favour of the plaintiff against the defendant to calculate the plaintiff's pay as stated in paras 4 and 5 of the plaint, plaintiff's gratuity and pension be calculated on Rs.640 and the arrears paid to the plaintiff.

After the filing of the suit in 1983, the same stood transferred to the Tribunal u/s.29 of the Administrative Tribunals Act XIII of 1985 at the instance of the DGC appearing for Union of India before learned Civil Court. On transfer to this Tribunal, written statement has been filed by Union of India represented by Sri D.C.Saxena, Advocate.

3. The matter taken up in the absence of Applicant or his counsel as the notice is very well available to Sri Sheo Kumar Singh. However, learned counsel for the Union of India pressed that the matter be heard and disposed of as he has been coming since ^a long time and the matter is pending. There

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is some substance behind this. On merits also, the jurisdiction of the Small Causes Court does not extend to service matters and in this case, in paras 10 to 12 of the plaint, the plaintiff has alleged that he has not been given the due date of promotion as well as he has not been given certain amount of gratuity on the calculated pay. Had learned counsel for the Applicant been present, the matter could have been thrashed out ~~but~~ in view of the fact that in this tribunal, all the service matters can be dealt with provided, of course, if the forum chosen by the Applicant before the enforcement of the Act XIII of 1985 was a correct forum and the Court, where the case was filed, was competent to decide the same. In the absence of learned counsel for the Applicant, this aspect of the case is not being given too importance. Learned counsel for the Respondents has also informed us that the Applicant has since been retired. The suit is also seven years old.

3. In view of above facts and circumstances, we dispose of this case on the terms that it is dismissed ex parte and the Plaintiff is not entitled to any relief claimed in the Plaintiff. The parties are directed to bear their own costs.

J. J. Jormano

MEMBER (J)

Dated: 10.5.1990
kkb

J. J. Jormano

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