

THE CENTRAL ADMINISTRATIVE TRIBUNAL-ALLAHABAD BENCH-ALLAHABAD.

T.A.No. 1624 of 1987.

Mustaq Khan..... Applicant.

Versus

Union of India and others..... Respondents.

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

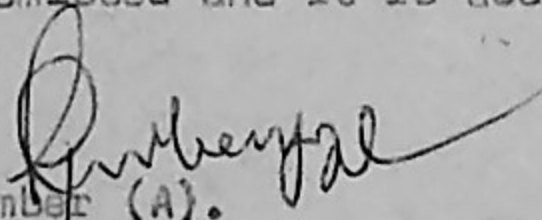
Hon'ble Mr. K. Obayya -A.M.

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

This is a transferred case under Section 29 of the Administrative Tribunals' Act, 1985. The applicant filed a Civil suit in the court of Munsif City, Kanpur praying that the decree for declaration that the office order dated 5.5.1982 passed by the Regional Director, Regional Directorate of Apprenticeship Training, Kanpur in pursuance of direction of the Directorate General of Employment & Training New Delhi's D.O. letter no. DGET-55/6/77 AP/TA-II Dt. 4.3.1982 disentitling him to draw arrears of pay and allowances for the period from 30.3.74 to 11.9.1979 is illegal and ultravires. The said suit was filed on 11.11.1982 that is some three years after expiry of the date upto which he made claim for the said amount. The suit was filed after giving the notice under Section 80 C.P.C.. The applicant was appointed as peon in C.T.I. The applicant started his service as Peon having been appointed to the said post in the Institute on 14.10.65 and after up-gradation he was declared surplus on 31.7.1972 and was adjusted on transfer at R.D.A.T. Kanpur on the previous post from the said date. He was also considered for the benefit of promotion from April, 1974. Prior to that date his juniors were promoted to the post of Work Shop Attendant (W.S.A.) without taking into consideration the adverse entries as the same were never communicated to him. The applicant was accordingly promoted to the post w.e.f. 12.9.79 in the scale of Rs. 260 - 350/- on probation which period he successfully completed. Thereafter vide order dated 5.5.82 for modification of the earlier order dated 11.9.79 he was granted notional fixation of pay under Fundamental Rule 17 in the scale of 260-350/-

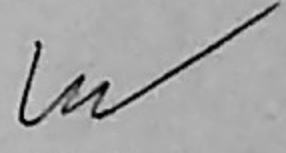
at Rs. 260/- on 29.3.1974 and with his pay fixed on 12.9.79 at Rs. 290/- per month. Thus the applicant was given notional promotion from the date his juniors were promoted and the respondents have stated that he was paid the arrears in view of the pay fixation from the date he actually took over charge on the post of W.S.A. In view of the provisions of Fundamental Rule 17 and according to the respondents also that the same is barred by time.

2. Thus the relief which has been claimed by the applicant is that although he has been given promotion, he would be entitled to the back wages or the salary or the difference of salary w.e.f. that date in respect of which claim was made by him three years after the date upto which he made the claim. As the applicant could get his promotion after the decree passed by the Civil Court and the selection committee ignored the adverse entries which were earned by him because the same were not communicated to him. It will not be a case in which the principle of no work no pay is to be given a go by. As the applicant did not work on the post from a prior date, he will not be entitled to arrears of wages and accordingly the claim of the applicant is not sustainable and the application deserves to be dismissed and it is accordingly dismissed. No order as to the costs.


Member (A).

Dt: August 13, 1992.

(DPS)


Vice Chairman.