

19-7-1990:

Hon'ble Mr. KJ Raman, AM,  
Hon'ble Mr. DK Agrawal, JM

Sri AV Srivastava, counsel for the applicant is present.  
Listed on 21-11-1990 for hearing. The office shall issue  
registered notice to the plaintiff/respondents at the address  
given in the plaint.

OK

Notice issued  
to the Plaintiff/  
respondents.  
fixing for hearing  
on 21.11.90.

See

(J.M.)

See

(A.M.)

ES/

21-11-90

No sitting. Adjourned

13.3.91 for hearing. Sri  
R.S. Ojha filed vakalatnama  
on behalf of plaintiff/  
respondent.

No undelivered  
notice received  
back in dispatch  
No. 50985.

KM  
20/11/90

13.3.1991

Hon'ble Mr. D.K. Agrawal, J.M.  
Hon'ble Mr. K. Obayya, A.M.

Sri A.V. Srivastava, Counsel for the applicants  
Sri R.S. Ojha Counsel for the Opp. party.

This appeal is directed against the  
judgment and decree dt. 20.3.1985 whereby  
the reversion order of plaintiff/Respondent  
dt. 23.12.1982 has been set aside.

The facts are that the plaintiff in due  
course of promotion was appointed on the post  
of TTE. Therefore, he was temporarily promoted  
on adhoc basis on the post of Head Ticket  
Collector vide order dt. 18.3.1981. He took  
charge on the post on 20.3.81. He was further  
reverted by an order dt. 23.12.1982 to his  
substantive post of TTE which was challenged  
in the Court below <sup>and</sup> set aside the reversion  
order. Therefore, it is an appeal by Union of  
India.

The question is as to whether the plaintiff.



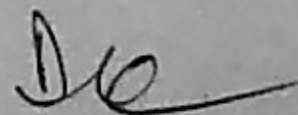
Respondent was given a chance to appear<sup>y</sup> in the examination for selection to the post of Head T.C.. The Learned Counsel for the appellant has brought it to our notice that he was allowed to appear in the examination held on 2.7.1982. No further information is available on the record. We would like to know as to how many chances were given to the plaintiff/respondent to appear in the examination and how many chances he refused to appear. There~~after~~<sup>after</sup>, the case has to be decided in the light of judgment of the larger Bench in *Jethanand's case*.

There is <sup>an</sup> application under section 5 limitation Act pending for disposal. The fact in this regard are that the judgment was delivered on 20.3.1985. The decree was prepared on 27.3.1985.

The application <sup>for condon</sup> was made on 23.3.1985. The copy was ready on 1.7.1985 and delivered to the applicant on 2.7.1985. The appeal was filed on 27.7.1985. Thus, the appeal was beyond limitation by about 4 days. The application under section 5 Limitation Act was allowed by the District Judge, vide order 27-7.1987. However, the plaintiff/Respondent raised an objection that Court of District Judge has no jurisdiction after the commencement of Administrative Tribunal Act 1985. Therefore, the order condoning the delay was recalled vide order 3.1.1988. We have taken into consideration the reasons given for condonation of delay. We hereby condone the delay.

List this appeal for hearing on 9.7.1991.

  
A.M.

  
J.M.