

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Allahabad this the 29th day of March, 2000

Original Application No. 293 of 1995

Hon'ble Mr. S.K.I. Naqvi, Member (J)  
Hon'ble Mr. M.P. Singh, Member (A)

R.S. Pundir, S/o Shri Kanhiya Singh, R/o 10A,  
Tapkeshwar road, ( Sherbagh Area ), Garhi Cantt.  
Dehradun.

Applicant

By Advocates Shri A.K. Gaur  
Shri O.P. Bakshi

Versus

1. The Union of India represented through the secretary to the Govt. of India, Ministry of Environment and Forests, Parayavaran Bhawan, New Delhi.
2. The Director, Forest Research Institute, P.O. New Forest, Dehradun.

Respondents

By Advocates Shri B.M. Pandey  
Shri D.S. Shukla

QUEES ( Oral )

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

Shri K.S. Pundir has come up before the Tribunal seeking direction to the respondents to pay arrears of salary from the date of his promotion to the post of U.D.C. from 30.6.1997 and to the post of Head Clerk from 20.12.1988.

*S. K. I.*

2. The admitted facts of the case are that the applicant was appointed as Lower Division Clerk in F.R.I. in the year 1961 and he appeared in the departmental examination for the post of U.D.C. in the year 1977 but his appointment/promotion to the post of U.D.C. was not approved because of adverse remarks in his service record. The applicant represented against the adverse remarks which was allowed and the remarks were expunged and thereafter, the applicant again pursued for the promotion but he was not considered departmentally. Therefore, he filed U.W. before Civil Judge, Dehradun which, on creation of Tribunal, was received before the Central Administrative Tribunal, Allahabad and taken up as T.A.No.1030 of 1986 and was finally decided on 06.12.1990 with direction to the respondents to hold a review D.P.C. and consider the case of applicant's promotion. The review D.P.C. was held accordingly and the applicant was approved for promotion and was accordingly promoted as U.D.C. w.e.f. 30.6.1977, the date from which next junior joined the post of U.D.C. but no arrears of pay was allowed. Vide order dated 15.11.1999, the applicant was again promoted to the post of Head Clerk w.e.f. 20.12.88 but this promotion order also contained a condition that no arrear would be admissible. The applicant represented departmentally for payment of arrears but the same were declined and, therefore, he has come up before the Tribunal for directions.

3. The respondents have objected the claim mainly on the ground that under principle of 'no work no pay', the applicant is not entitled to get the arrears of pay for the period when he did not work, as such and also that the O.A. is grossly barred by limitation of time, as provided under Section 21 of the Administrative Tribunals Act.

4. Heard, the learned counsel for the rival contesting parties and perused the record and considered the law placed from either side.

5. We first take up the point of limitation. The applicant has filed an application under Section 5 of the Indian Limitation Act, 1963 and has mentioned the circumstances under which he could not file the present O.A. within limitation of the time. We considered the facts mentioned therein and find sufficient ground to condone the delay,

6. On the principle of 'no work no pay' there is leading case 'Union of India Vs. K. V. Janki-raman A.I.R. 1991 S.C. page 2010', in which the controversy has been finally settled and their Lordships at Apex Court have held as under:-

"We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for

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no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that FA 17(1) will also be inapplicable to such cases.\*

7. In the present case also, we find that for no reason or fault, the applicant was denied his due promotion although his juniors were so promoted. This is also not a case where the applicant could be said to have expressed his unwillingness to work on the post of promotion. Infact he was deprived of working on the promoted post by the authorities for no fault of his and he was not given the promotion when it fell due to him, for which he had to obtain direction from the Tribunal and, therefore, with these facts and the legal preposition, the right of arrears to the applicant cannot be declined.

8. From the above, we find force in the prayer of the applicant, which is allowed accordingly. The impugned order dated 31.1.1992 (annexure 4-7) is set aside and the respondents are directed to pay the arrears of salary from the deemed date of promotion to the post of U.D.C. viz. 30.6.1977 till the date of actual promotion and also the arrear of salary from the deemed date of promotion to the post of Head Clerk Viz. 20.12.1998 till the date of actual promotion to this post. No interest to be admissible as claimed by the applicant. No order as to costs.