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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

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ORIGINAL APPLICATION NO. 175 OF 1986

Date of decision

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April 29 , 1988

Bharat Chandra Swain, son of late Chintamani Swain,  
At present working as Lower Division Clerk,  
Office of the Commissioner of Income Tax, Udayan Marg,  
Bhubaneswar.

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Applicant.

Versus

1. Union of India, represented through Secretary,  
Department of Internal Security, Ministry of Home Affairs,  
Rehabilitation Division, New Delhi.

2. Chief Administrator, Dandakaranya Project,  
At/P.O/P.S. Dist- Koraput.

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Respondents.

M/s A.K. Mohapatra &  
P.K. Mohapatra,  
Advocates

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For Applicant.

Mr. Tahali Dalai, Addl. Standing  
Counsel ( Central)

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For Respondents.

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C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER ( JUDICIAL)

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1. Whether reporters of local papers may be permitted to see the judgment ? Yes .
  2. To be referred to the Reporters or not ? No
  3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .
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J U D G M E N T

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the action of the competent authority giving promotion to M/s B.K.Patnaik, L.K.Rath and R.C.Mishra in supersession of the claim of the petitioner is under challenge.

2. Shortly stated, the case of the petitioner is that he was appointed as Revenue Inspector under the Dandakaranya Development Authority on 18.1.1962. M/s B.K. Patnaik, L.K.Rath and R.C.Mishra were appointed to the same nature of posts on 29.1.1962, 18.12.1963 and 18.1.1965 respectively. Thereafter Sri B.K.Patnaik was promoted to the post of Land Survey Superintendent on 7.12.1976 and M/s L.K.Rath and R.C.Mishra were promoted to the same nature of posts on 16.6.1978 and 29.8.1978 respectively. Much later i.e, on 13.1.1981 the petitioner was promoted to the post of Land Survey Superintendent. Being aggrieved by this alleged illegal action of the concerned authorities in promoting the petitioner much later than M/s B.K.Patnaik, L.K.Rath and R.C.Mishra, the petitioner has filed the aforesaid application with a prayer to direct Respondents to treat the promotion of the petitioner with effect from the date on which Sri B.K.Patnaik was promoted.

3. In their counter, the respondents maintained that the case is grossly barred by limitation and so far as the facts are concerned it is maintained by the respondents that the petitioner's case was considered and the Departmental Promotion Committee did not find him suitable and thereafter when his case was considered

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not

there was no vacancy . Therefore he could/get promotion .  
 Hence ther~~e~~ being no merit in the case , the same is  
 liable to be dismissed .

4. Mr. A.K. Mohapatra, learned counsel for the petitioner vehemently urged before us that the petitioner having been exonerated from the charges levelled against him in a departmental proceeding , there being a clean ~~straight~~ record for the petitioner he should be given promotion with effect from 1976. His unsuitability has been determined by the Departmental Promotion Committee because ~~the~~ <sup>a</sup> proceeding was pending . After hearing this argument, we felt inclined to call for the minutes of the Departmental Promotion Committee but so far as the limitation aspect is concerned, we are convinced that the case is grossly barred by limitation because from 1981 when the petitioner got the promotion, no action was taken by the petitioner and the petitioner completely slept over the matter. To over-come this difficulty, Mr. Mohapatra submitted that the representation filed by the petitioner being still under consideration by the appropriate authority , limitation would not run against him. There is no force in the contention because the provisions are clear cut on this point that once the representation is not disposed of within six months , the person aggrieved may come up to ventilate his grievance . In these circumstances ~~stated~~ above, we find no merit in the application which stands

by



dismissed leaving the parties to bear their own costs .

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..... 29.4.88  
Member ( Judicial )

B.R. PATEL, VICE CHAIRMAN,

g agree .

..... 29.4.88  
Vice Chairman.



Central Administrative Tribunal,  
Cuttack Bench.  
April 29, 1988/Roy, SPA.