

6 (14)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 118 of 1987.

Date of decision : December 8, 1989.

J.K. Bhattacharya, son of late K.C.
Bhattacharya, aged about 47 years,
Upper Division Clerk, Construction
Division, Dandakaranya Project,
M.V. 79, P.O. Lachipeta, District-Koraput.

... Applicant.

Versus

1. Union of India, through Secretary,
Ministry of Home Affairs, Department
of Home Affairs, Rehabilitation Wing,
Jaisalmar House, Mansingh Road,
New Delhi.
2. Chief Administrator,
Dandakaranya Development Authority,
At/P.O./Dist. Koraput, Orissa.

... Respondents.

For the applicant ... M/s. B. Pal,
O.N. Ghosh,
S.C. Parija, Advocates.

For the respondents ... Mr. Ganeswar Rath,
Senior. Standing Counsel (Central)

C O R A M :

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

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed 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

N.SENGUPTA, MEMBER (J) For what is going to be stated below it is not necessary to make a detailed statement of all the facts alleged in the application giving rise to the case which runs for 21 typed pages. For the present purpose, it would be sufficient to state that the applicant entered as an L.D. clerk in the Engineering Department of the Dandakaranya Project. Subsequently, there was amalgamation of the Engineering Department and the Administrative Department. The applicant and some others were promoted to the grade of Upper Division Clerk but they were subsequently reverted to the grade of L.D.Clerk. Against this order of reversion ~~of~~ ^{out} L.D.Clerk, the applicant made a representation on 30.5.1963 (copy at Annexure-A4). Subsequently, he was promoted to the grade of Upper Division Clerk but he made a representation for reviewing his seniority in the light of his representation made in the year 1960 against his reversion. Thereafter, it is alleged, he went on making representations one after another till the year 1985 but his representations were all to no avail. On these allegations the applicant has prayed for the relief of being declared to be entitled to be promoted to the rank of Selection Grade Clerk retrospectively with effect from 26.4.1976 on the basis that he became entitled to become an Upper Division Clerk in 1960.

2. What really stares at the face of the applicant ~~at~~ ^{at} the threshold is the question of limitation and that is the question on which learned Advocates for the parties have addressed arguments besides another question raised in the

counter of the Respondents about non-joinder of parties.

3. Mr. Parija, learned counsel for the applicant, has stated that althroughout two decades and a half commencing from 1960 to 1985 the applicant has been representing to the authorities but none of them really seriously considered his grievance and that his case was kept pending without any decision by the concerned authorities. With regard to this submission of Mr. Parija, Mr. Ganeswar Rath, learned Senior Standing Counsel (Central), for the respondents has contended that the submission is not factually correct. Mr. Rath has drawn our attention to Annexure-A 22, a letter issued by the Deputy Secretary to Government of India, Ministry of Labour and Rehabilitation dated 24.12.1984 to the Personnel Officer, Salal Hydro Electric Project, where the applicant at that time was working. From Annexure A.22 it would be found that the applicant was made aware of the contents of that letter by forwarding a copy of it under memo No. P & A/P-I/27(352)/84/52477 dated 24.12.1984. The applicant made a grievance that Shri R.N. Bose was promoted in supersession of his claim and by the letter referred to above, the applicant was informed that no injustice had been done to him as he was a Non-graduate and Shri Bose, a Graduate. Thus, it can be seen that the representation of the applicant was really rejected in December, 1984. The present application was filed on 20.4.1987 by which time more than two years had elapsed. Under section 21 of the Administrative Tribunals Act, 1985, an application for redressal of grievance has to be filed within one year from the date on which such final order was made. Therefore, his representation

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having been rejected in December, 1984, the present application is clearly barred by limitation.

4. Faced with this situation, Mr. Parija has drawn our attention to Annexure-A 29, a letter by which Senior Manager (P & A), National Hydroelectric Power Corporation Ltd. to the Joint Secretary, Ministry of Home Affairs, addressed on 29.3.1986 and has contended that from this letter it can be spelt out that the representation of the applicant had not been disposed of and was kept pending. Therefore it would come within second part of Section 21 and the application having been filed within one and half years from that date, is still within time. We are unable to accept this contention for two reasons, namely this is a letter more in the ~~language~~ ^{nature} of recommendation by a person who had no authority either to accept or pass an order on the representation and secondly, this letter does not say that infact any representation was pending for consideration, what it really stated was that much injustice had been done to the applicant and that he should be given a just treatment.

5. The other contention which has been casually argued by Mr. Rath, learned Senior Standing Counsel (Central) for the Respondents is that as may be found from Annexure-A 13 to the application, in case the seniority matter of the applicant is taken up now for consideration, it will unsettle the seniority in the gradation list of Upper Division Clerks of about 60 persons. It is an accepted principle that a Court or Tribunal would not indulge in matters which would unsettle the settled position over a number of years. Apart from this,

Mr. Rath
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those persons have not been made parties to this application. Therefore, it would not be possible to grant any relief in their absence.

6. On these two preliminary grounds, this application stands dismissed but, however, in the circumstances of the case without costs.

M. Singh
.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



B.R. Patel
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 8, 1989/Sarangi.

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Section XIA
SUPREME COURT OF INDIA
NEW DELHI.
DATED:- 20/06/95

56(1)
Sw
18/7/94
From:- The Registrar
Supreme Court of India.
NEW DELHI.

To
The Registrar
~~High Court of~~ Central Administrative Tribunal
Cuttack Bench, Cuttack

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL No. 11420 /94

(Petition under Article 135(1) of the constitution of India from

the Judgment and Order dated 8th Dec. 1987

of the ~~High Court of Judicature at~~ Central Administrative Tribunal
Cuttack Bench, Cuttack (C.O. No. 118/87)

J.K. BHATTACHARYA

... PETITIONER(S)

- vs -

UNION OF INDIA AND ANR

... RESPONDENT(S)

Sir,

I am directed to inform you that the petition above mentioned
filed in the Supreme Court was dismissed
by the Court on 11/07/94

Yours faithfully

For Registrar

COPY TO

MR. PRADYOT KUMAR SHARMA (adv)