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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 59 of 1987

Date of decision January 27, 1988.

Subash Chandra Panda, son of Narayan Panda,
At/P.O- Joroda, Via- Kabisurya Nagar, Dist-Ganjam,
At present Headmaster, Middle School, M.P.V.82,
Dist- Koraput .

... Applicant.

Versus

1. Union of India, represented by the Secretary to the Government of India, In the Ministry of Home & Rehabilitation, New Delhi.
2. Chief Administrator, Dandakaranya Project, Head Quarters, At/P.O/Dist- Koraput.
3. Superintendent of Education, Dandakaranya Project, At/P.O/Dist- Koraput.
4. Zonal Administrator, Dandakaranya Project, Malkangiri, Dist- Koraput.
5. Executive Officer, Zonal Head Quarters, At/P.O-Malkangiri, Dist- Koraput (Orissa).
6. Sri Krishna Chandra Sumanta, Headmaster, M.E. School, At/P.O. M.V. 72.
7. Sri K.K.Haldar, Headmaster, M.E. School, At/P.O- M.V. 34, Dist- Koraput (Orissa).

... Respondents.

Mr. J.M.Mohanty, Advocate ... For Applicant.

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

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)

1. Whether reporters from local papers have been 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 .

JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, relief sought by the applicant is two fold, namely, to give a declaration that the applicant is entitled to the scale of pay of Rs.550 to Rs.900/- with effect from 18.5.1975 i.e., the date of appointment of the applicant to the said post and it was further prayed that Respondent Nos. 6 and 7 be commanded to consider the case of the applicant for promotion to the post of Headmaster with effect from 18.5.1975.

2. Shortly stated, the case of the applicant is that he is a Trained Graduate Teacher employed under the Dandakaranya Development Authority. Since 18.5.1975 the petitioner was appointed as a Trained Graduate Teacher ~~on~~ on 1.4.1986 he was appointed as Headmaster of a Middle School. The applicant has been denied pay scale of Rs.550/- to Rs.900/- and therefore the applicant has come up with this application with the prayers mentioned above.

3. In their counter, the respondents maintained that the applicant is not entitled to Rs.550/- to Rs.900/- as he was appointed as a Trained Graduate Teacher carrying a lesser pay scale and further more it is maintained that the case is barred by limitation under section 21 of the Administrative Tribunals Act, 1985 and under Article 7 of the Limitation Act.

4. We have heard Mr. Mohanty, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government at some length.
 Prayer of the applicant to entitle him to a pay scale

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of Rs.550/- to Rs.900/- should be first disposed of. In this connection, it is needless to say that the Hon'ble High Court of Orissa in several cases of this nature had granted necessary relief to the concerned incumbents entitling each of them to a pay scale of Rs.550/- to Rs.900/- and the Government of India very fairly and rightly sanctioned such pay scale in compliance with the writ issued by the Hon'ble High Court of Orissa. Later in several cases in the past we have agreed with the views of the Hon'ble High Court of Orissa that ^{they are entitled, to} as Headmasters of M.E. Schools, to get a pay scale of Rs.550/- to Rs.900/-. In the present case, we do not find any justifiable reason to make a departure from the view already taken. As regards the question of limitation, we have dealt in detail in O.A. Nos. 81, 82 and 101 of 1986 holding that Article 7 of the Limitation Act can be attracted only when the claim is settled and the due accrues to the petitioner. In the present case admittedly the claim has not been settled and the question of any due arising in favour of the petitioner does not arise. Therefore, in such circumstances, Article 7 of the Limitation Act will not be attracted under any circumstance. Hence we do not find any merit in the contention of the learned Addl. Standing Counsel Mr. Dalai contending that the case is barred by limitation. In view of the aforesaid discussions, we hold that the petitioner is entitled to a pay scale of Rs.550/- to Rs.900/- with effect from the date on which he discharged his duty as Headmaster of M.E. School till the date on which he relinquished the said ^{post} ~~function~~.

to treat him as promoted to the post of Headmaster, M.E. School we would like to say that it deserves no merit because we have already discussed this issue in detail in the case of K.K.Haldar v. Union of India forming subject matter of O.A. 59/86 disposed of by this Bench on 4.8.1986. Therein we have held that the petitioner has no right to claim for promotion to the post of Headmaster, M.E. School from the date he functioned as such in view of the fact that the recruitment rules to the post of Headmaster, M.E. School has already come into force in view of the fact that the pay scale of the Headmasters was made higher than the pay scale of Train Graduate Teachers. These discussions need no repetition in the case. Following the view propounded in the case of K.K.Haldar (supra), we would also hold that in the present case the petitioner's claim to be treated as promoted with retrospective effect deserves no merit and therefore, the prayer of the petitioner on that account stands dismissed. In view of the discussions and findings given above, the petitioner is entitled to the pay scale of Rs.550/- to Rs.900/- with effect from the date on which he functioned as such till the date he relinquished himself from the said post and the arrear emoluments be paid to the petitioner within three months from the date of receipt of a copy of this judgment.

6. Lastly we would say, as submitted by Mr. Mohanty that in future keeping in mind the seniority position of the petitioner, due promotion should be given to the petitioner under the recruitment rules and we are sure that the respondents- Opp. Parties would have no objection to act in a manner according to law.

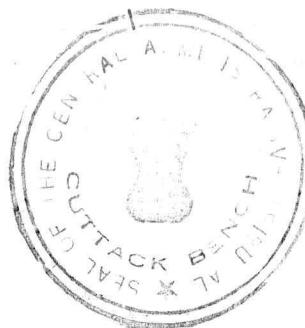
7. Thus, the application is allowed in part leaving the parties to bear their own costs .

Agreed DNY3
27.1.88
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

9 agree

Agreed 27.1.88
Vice Chairman.



Central Administrative Tribunal
Cuttack Bench.
January 27, 1988/Roy, SPA.