

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 357 OF 1988

Date of decision: November 15, 1993

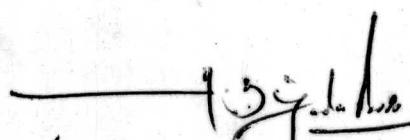
Abhijit Gupta Applicant

Versus

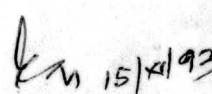
Union of India & Others Respondents

(For Instructions)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
Member (Administrative)

15 NOV 93


(K.P. ACHARYA)
VICE CHAIRMAN

15 NOV 93

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 357 OF 1988

DATE OF DECISION: 15TH NOVEMBER, 1993

Abhijit Gupta Applicant
versus
Union of India & Others Respondents

For the Applicant M/s. J. Das, B.S. Tripathy,
B.K. Sahoo, S. Mallick,
S.K. Purohit, S.K. Patra,
Advocates.
For the Respondents Mr. Akshya Kumar Misra,
Additional St. Counsel
(Central).

C O R A M:-

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
&
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (Admn.)

J U D G M E N T

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the gradation/seniority/feeder list dated 19th November, 1987 contained in Annexure-5 which has been issued pursuant to the judgment passed by the Hon'ble High Court of Allahabad, contained in Annexure-2.

2. Shortly stated the case of the petitioner is that he was initially appointed on or about 30.1.1969 as Cantonment Executive Officer in the rank of Class-II after being successful in the combined recruitment examination conducted by the Union Public Service Commission in the year 1968. In course of time, the petitioner was confirmed in the said post and subsequently, the petitioner was promoted to the rank of Group-A (Junior Scale) in officiating capacity.

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While the Petitioner was continuing in the Senior Scale of Group A on or about 22nd July, 1987, the seniority of the petitioner was altered from Sl. No. 13 to Sl. No 15 and this was in pursuant to the judgment passed by the Hon'ble High Court of Allahabad on 22nd April, 1987 in O.W.P. No. 1867 of 1977. The representation filed by the Petitioner did not yield any fruitful result and therefore, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintain that the Opposite Parties had no option in the matter but to follow the directions of the Allahabad High Court scrupulously and meticulously. The Judgment of the Allahabad High Court having been followed, the seniority in regard to the petitioner vis-avis Opposite Party Nos. 4 and 5 had to be altered and no illegality has been committed by such alteration. Hence, in a crux, it is maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. K. P. Mishra learned counsel appearing for the petitioner and Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central).

5. We have gone through the pleadings of the parties and the findings of the Allahabad High Court

in the above mentioned writ petition. Admitted position is that the petitioner and Opposite Party Nos. 4 and 5 were parties in the said writ petition. There cannot be any iota of doubt that the judgment passed by the Allahabad High Court has a binding authority over the present petitioner vis-a-vis Opposite Party Nos. 4 and 5 and so also the concerned Government. Mr. K. P. Mishra learned counsel appearing for the petitioner did not make any submission attacking the merits of the judgment passed by the Hon'ble Allahabad High Court or the orders passed by the competent authority in pursuant to the findings of the Hon'ble Allahabad High Court except that Mr. Misra with vehemence submitted that the present petitioner had not been noticed regarding the filing of the application and therefore, had not entered appearance and had not contested the claim of the Opposite Party Nos. 4 and 5 in the said writ petition. It is too late in the day for the present petitioner to agitate that he was not noticed on the above subject and no opportunity had been given in this matter. If it is so, the law had authorised the petitioner to move a review petition to get the matter re-heard. The Petitioner did not open his mouth rather he slept over the matter for a long time.

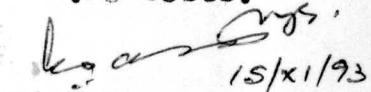
Besides the bald assertion that the petitioner was

not noticed in regard to the filing of the writ petition before the Hon'ble High Court of Allahabad there is absolutely no iota of evidence placed before us to substantiate the aforesaid contention of the learned counsel for the petitioner. Therefore, in this case we would say that it is too late in the day for the petitioner to make an attempt to wreck-up a very old matter. Therefore, the steps taken by the concerned authority in following the directions of the Hon'ble High Court of Allahabad and altering the seniority of the petitioner vis-a-vis opposite party Nos. 4 and 5 cannot be held to be illegal and therefore, the impugned order is hereby upheld. Besides, the above, nothing else was urged before us. We therefore, find no merit in this case which stands dismissed. No costs.


Member (Administrative)


15~~th~~ Nov 93

Central Admn. Tribunal,
Cuttack Bench, K. M. Chanty
November 15, 1993.


Vice-Chairman

15/11/93