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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 147 OF 1989..

Date of decision: 5th November, 1990.

Raghunath Sahu

Applicant

Versus

Union of India and others

Respondents.

For the applicant

: In person

For the Respondents
(No.1 to 3)

: Mr. Ashok Mohanty
Standing Counsel
(Railway Administration)

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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JUDGMENT

N. SENGUPTA, MEMBER (J),

The applicant has prayed for grant of legal expenses incurred by him in defending a criminal case filed against him in which he was acquitted of the charges and for promotion to the rank of Senior typist and Head typist from the dates Respondent Nos. 4 and 5 were promoted to those ranks.

2. The applicant's case is that there was a criminal case against him (the applicant) which was tried by the Special Judge, during the period of pendency of that criminal case he was under suspension ^{- and -} he was acquitted on 12.7.1979 of the charges framed against him in that criminal case. After that he made a representation in August, 1979 to pay him the legal expenses. But that representation has not ~~not~~ borne any fruit. At the time of the initiation of the criminal case he (the applicant) was working as a Junior Typist. The normal channel of promotion is from Junior Typist to Senior Typist and from Senior Typist to Head Typist. During the period of his suspension his juniors Respondent Nos. 4 and 5 were allowed in 1978 to officiate as Senior Typists. After the decision of the Criminal case he, on 13th May, 1980, made a representation for his promotion to the grade of senior typist with effect from the date Respondent Nos. 4 and 5 were promoted to that grade. Subsequently, in the year, 1987 Respondent Nos. 4 and 5 were promoted to the

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rank of Head typist. He (the applicant) made a representation on 8.11.1987 for promoting him from the date his juniors were promoted to that grade. As there was no response from the Railway Administration, he filed the present application on 17.1.1989. Even though, the Railway Administration was served with the notices of this application it has not filed any counter.

3. We have heard the applicant in person and Mr. A.K. Mohanty, learned Standing Counsel (Railway Administration) for the Respondents. Mr. A.K. Mohanty has contended that the application is barred by limitation in as much as the application was filed in January, 1989 and the reliefs sought for relate~~ing~~ to the years 1978, 1979 and 1987. The applicant has referred to us the first order passed in this case where a note of condonation of delay has been made. The question that really arises for consideration is whether could this Tribunal condone the delay in respect of the causes of action or orders giving rise to the griev~~ance~~ of the applicant which arose or were passed prior to 1.11.1982. Admittedly this Tribunal came into existence on 1.11.1985. According to Section 21 of the Administrative Tribunals Act, this Tribunal has jurisdiction to entertain applications in respect of the grievances arising within three years next preceding the establishment of the Tribunal and as has been decided, since the Tribunal lacks jurisdiction to entertain a case

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relating to such a grievance which occurred ~~within~~ three years prior to the Constitution of the Tribunal, it also does not have jurisdiction to condone any delay. That being the position of law, the mere note of condonation of delay in the first order passed by this Tribunal cannot be of any assistance to the applicant to overcome the ~~barred by~~ limitation so far as prayers for payment of legal expenses and promotion to the grade of senior typist ~~which~~ concerned. With regard to the prayer of the applicant relating to promotion to the grade of Head Typist, there can be no question of limitation in as much as the applicant made a representation on 8.11.1987 and that representation was not responded to. The ~~bar~~ ^{period} of limitation is really one year and six months from the date of making representation and the application having been filed on 17.1.1989 with regard to this relief it is well within time.

4. The applicant has vehemently urged that in the cadre of Senior Typist Respondent Nos. 4 and 5 have been adjudged junior to him, therefore, he should have been promoted to the rank of Head typist before those to Respondents were promoted to that grade. The applicant at the time of hearing was going to produce a document purported to be a senior ^{ity} list but in view of the fact that this document was not annexed to the application when presented and since admitting this document into record may cause prejudice to the Respondents who will

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have no opportunity to have their say in the matter, we ~~are~~ refrain from admitting that ~~the~~ document at this stage. However, as it has been urged by the applicant that Respondent Nos. 4 and 5 are juniors to him in the grade of senior typist and further that these two Respondents had been promoted as Head typist prior to the date when the applicant was promoted, we not being in the know of the actual position of the applicant in the seniority list of senior typist, in the circumstances of the case, ~~we~~ would direct that the applicant's case for promotion, if he ^{is} senior to Respondent Nos. 4 and 5, to the grade of Head Typist on the dates Respondent Nos. 4 and 5 were promoted, be considered by the Railway Administration.

5. The case is accordingly disposed of.

The parties should bear their own costs.

Arnold
..... 5.11.90
VICE-CHAIRMAN

Neelam Singh
..... 5.11.90
MEMBER (JUDICIAL)

