

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 332 of 1989

Date of Decision: 22.9.92

Radhashyam Mohanty

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. Bimal Pr. Das
Bikram Pr. Das &
G. Rout, Advocates

For the respondents

Mr. Ganeshwar Rath
Standing Counsel (Central Govt.)

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C O R A M

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MISS USHA SAVARA, MEMBER (ADMN)

1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? *NO*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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 applicant prays that the order dated 8.1.1982 contained in Annexure-2 reverting the applicant to the post of Attendant be quashed.

2. Shortly stated, the case of the applicant is that the applicant joined Government of India Text Book Press, Bhubaneswar on 7.11.1975 in the post of Attendant and while he was continuing as such, he was appointed as Machine Assistant (Off-set) on ad hoc basis with effect from 19.12.1978 vide Annexure-1. After the applicant served in the said post for some time, he has been reverted to his former post of Attendant vide order dated 8.1.1982 contained in Annexure-2. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that not only the case is grossly barred by limitation but also case is devoid of merit on questions of fact. The the applicant was appointed on ad hoc basis as no suitable candidate was found by then to man the post in question. According to the 40 point roster the first post is to go to a Scheduled Caste and second and third posts are to be given to a person of general category and the fourth post is to go to a scheduled Tribe candidate. Due to non-availability of a scheduled caste candidate, ~~fixxx~~ the post ^{in question} was filled up by a candidate of general category for which there was a carry forward of the vacancy for three recruitment years. The second recruitment year was 1982. The cases of several candidates were considered by the Departmental Promotion Committee which recommended the case of Shri Prahallad Bhoi

for promotion to the post of Machine Assistant (Off set). Accepting the recommendation of the Departmental Promotion Committee the said Shri Prahallad Bhoi was promoted to the post which was a reserved one to which the applicant was temporarily promoted. As a result of the promotion given to Shri Bhoi to a post meant exclusively for a scheduled caste candidate, there was no other option left for the competent authority but to revert the applicant to his former post. Hence, no illegality having been committed, the case is devoid of merit and is liable to be dismissed.

4. We have heard Mr. B. P. Das, learned counsel for the applicant and Mr. Ganeswar Rath^{Addl.}, learned/ Standing Counsel (CAT) for the respondents, on the merits of the case.

Admittedly, reversion has taken place on 3.1.1982. Therefore, the cause of action, if any, arose in favour of the applicant in January, 1982. Section 21 of the Administrative Tribunals Act, 1985, creates a clear bar for the Tribunal to take cognizance of any cause of action said to have accrued in favour of ^{an} applicant prior to 1.11.1982. Hence, the cause of action in this particular case having arisen much prior to 1.11.1982, the Tribunal has no jurisdiction to entertain this case. Conceding for the sake of argument that the period of limitation is to be computed from the date of dismissal of the representation, it may be noted, that the representation was made on 2.3.1983 and it was rejected on 15.2.1984 vide Annexure-4. This case has been filed on 4.8.1989. Even if the period of limitation is computed from 15.2.1984, still the case is grossly barred by limitation, for which no explanation has been offered, far less to

speak of satisfactory explanation, to condone the delay. Hence, we are of opinion that the case is liable to be dismissed on the question of limitation.

5. Coming to the questions of fact, we find that the post in question was meant for a scheduled caste candidate. Shri Prahallad Bhoi was recommended by the Departmental Promotion Committee and therefore, there was no other alternative left for the competent authority but to order promotion of Shri Prahallad Bhoi to the post in question and consequently the applicant had to be reverted and actually he has been reverted, for which we find no illegality to have been committed by the concerned authority. Hence, we find that both on questions of fact and on the question of limitation, the case is bound to fail and therefore, it is accordingly dismissed leaving the parties to bear their own costs.


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MEMBER (ADMN.)


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VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
22.9.1992/Sarangi.