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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 55 of 1989

Date of Decision: 22.9.92

Naba Kishore Sahoo Applicant

Versus

Union of India & Others Respondents

For the applicant

M/s. J. Das,
B. K. Sahoo
B. S. Tripathy
S. K. Purohit,
Advocates

For the respondents

M/s. D. N. Mishra,
S. C. Samantray,
P. K. Mohanty,
Advocates

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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)

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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

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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 to quash the impugned provisional gradation list as at Annexure-7 and direct Respondents 1 to 3 for reconsidering the seniority position of the applicant-vis-a-vis the Respondents 4 to 8 afresh as per Rules and refix their seniority.

2. Shortly stated, the case of the applicant is that on 31.5.1963 the applicant joined the Engineering Department under Khurda Road Division as a casual Jeep Driver and was posted under the control of Respondent No.2. The applicant was duly selected after taking the recruitment test in the year 1974 and vide letter dated 30/31.8.1966 the applicant was absorbed on regular basis as Vehicle Driver vide Annexures-1 & 2. In the year 1979 the applicant was called upon to appear in a trade test for regular absorption as Jeep Driver and the applicant turned out to be successful. Very unfortunately Respondent No.3 vide his letter dated 16.5.1986 regularised the applicant with effect from 29.3.1984. The provisional seniority list of the Drivers (Grade III) as on 1.11.1987 was published wherein the name of the applicant stood at serial No.6 instead of being placed against serial No.1. The applicant made a representation on 20.11.1987. Since the grievance of the applicant was not redressed, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the seniority of different incumbents has been fixed according to Rules and the grievance of the applicant on this count

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is ill-founded. The case is also barred by limitation and therefore, is liable to be dismissed.

4. We have heard Mr. Mallik, learned counsel for the applicant and Mr. D. N. Misra, learned Standing Counsel (Railways) for the respondents. We have perused the provisional seniority contained in Annexure-7 and we find therefrom that the date of appointment of all other incumbents namely those who have been placed against serial Nos. 1 to 5 have been appointed earlier to the present applicant as Khalasi or Gangman except A. Venkateswar Rao who was appointed as Casual Car Driver on 6.9.1974 and all the incumbents mentioned against Serial Nos. 1 to 5 have been promoted to the grade much prior to the date on which the applicant was promoted to the grade of Driver i.e. on 29.8.1984. On questions of fact we find that the applicant has failed to make out a case in his favour. Apart from the above we find there is substantial force in the contention of Mr. D. N. Misra learned Standing Counsel (Railways) that the representation was filed by the applicant on 15.10.1986 vide Annexure 6. Even if the applicant did not get any response over this representation, then under section 21(1)(b) of the Administrative Tribunals Act, 1985, the applicant should have approached this Bench soon after expiry of 6 months from the date of filing of the representation. But the applicant has approached this Bench long thereafter i.e. on 23.1.1989 and therefore, the case being grossly barred by limitation, it should be dismissed. We accordingly hold that the case is barred by limitation and hence liable

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to be dismissed.

5. As we have already held that on questions of fact the applicant has failed to make out a case in his favour and having expressed our views against the applicant on question of limitation, we are of opinion that the case is devoid of merit and is liable to be dismissed. Accordingly, the case stands dismissed leaving the parties to bear their own costs.

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MEMBER (ADMINISTRATIVE)

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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack
22.9.1992/Sd/-

