

6 2
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO : 367 OF 1991

Date of decision : 28. 9. 1993

P.K.Sahoo & Others

... Applicant(s)

Versus

Union of India & Others

... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? NO
2. Whether it be circulated to all the Benches of the NO Central Administrative Tribunals or not?

1.54.1.1
MEMBER (ADMINISTRATIVE)

28 SEP 93

28/9/93
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No. 376 of 1991

Date of Decision: 28. 9. 1993

Versus

Union of India & Others Respondent(s)

For the applicant: Mr. G. A. R. Dora
Advocate

For the respondents: **Mr. D. N. Mishra**
Standing Counsel
(Rly. Administration)

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER [ADMIN.]

JUDGMENT

MR .K.P.ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioners (three in number) pray to quash the cancellation order contained in Annexure-A/5 and direct the opposite parties to publish the panel and give appointment to the petitioners. Incidentally it may be mentioned that

submitted that Annexure-A/5 is a typographical mistake for Annexure-6. Therefore, we read it as Annexure-6.

2. Shortly stated the case of the petitioner is that all of them are good players in football and volleyball. They have earned reputation in this line having gained merit certificates from concerned authorities. There was a publication made inviting applications for filling up certain posts in Group-D category against sports quota for the year 1991. The petitioners had been called for a ground test and it is said by the petitioners that they had turned out successful, but unfortunately results were not published in regard to their performance in the interview. But so far as petitioners are concerned, they are of opinion that they have done verywell in the interview. Thefore, this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the scheme promulgated for appointment in sports quota has since been cancelled by the Government in their letter dated 20.11.1991, and it is fufther maintained by the opposite parties that vacancy in a particular year cannot be carried over to subsequent year or years. For certain reasons^{or the other}, the posts could not be filled up, and therefore, there was no question of those posts to be carried over to subsequent years and especially the when the scheme was cancelled in November, 1991.

4. We have heard Mr.G.A.R.Dora, learned counsel for the petitioners and Mr.D.N.Mishra, learned Standing Counsel appearing for the Railway Administration.

5. It was vehemently urged by Mr. Dora that

9
cancellation of the scheme would be always prospective, but never retrospective. It was further submitted by Mr.Dora that once there were posts available for the year, 1991, and they have not been filled up due to the negligence and callousness of the concerned authority, for which the petitioners should not be made to suffer, and therefore, the Court should direct that appointment should be given to the petitioners with effect from 1991.

6. On the other hand Mr.D.N.Mishra, learned Standing Counsel contended that once the scheme has been abolished, no appointment can be given to anybody after November, 1991. The petitioners have taken the protection of the Court much after 1991 and therefore, the petitioners cannot claim any relief on the basis of a particular scheme which is no more in existence. Mr.Mishra further submitted that due to certain irregularities committed during the selection process, which was not within the knowledge of the competent authority, the selection was cancelled and ultimately the scheme having been cancelled no further action was taken regarding the appointment of the petitioners.

7. We have given our anxious consideration to the argument advanced at the Bar. There was no dispute presented before us regarding the cancellation of the scheme and that the rule envisaged by the Government that a particular vacancy cannot be carried over to the next year. Of course we are in agreement with Mr.Dora that for the laches of a particular departmental authority the incumbents should not be made to suffer. But here is

10
11

a case where the cancellation of interview was within such a short span of time, perhaps no relief could be given to the petitioners and that apart, the posts in question cannot be carried over to the subsequent years and in such circumstances, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

T. S. Sahoo
MEMBER (ADMINISTRATIVE)

28 SEP 93

DR
28/9/93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 28.9.1993/ B.K.Sahoo

