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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 147 OF 1992

Date of decision : 18.11.1993

Narendranath Satapathy

... 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 Central Administrative Tribunals or not? No


MEMBER (ADMINISTRATIVE)

18 Nov 93


VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 147 of 1992

Date of Decision: 18.11.1993

Narendranath Satpathy

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. P.K. Ray
P. Mohanty,
Advocates

For the respondents

Mr. U.B. Mohapatra
Standing Counsel
(Central)

...

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to be issued to the opposite parties that the order contained in Annexure-9 should be modified to the extent that the initial appointment of the petitioner as Lower Division Clerk in the Office of the Regional Director, National Savings Organisation was with effect from 18.8.1972 and not from 2.12.1977 which has been mentioned in Annexure-9; and so also in the gradation list. Further more it is prayed that such computation from 18.8.1972 should be treated as qualifying service for the purpose of pension and seniority and it is further prayed that a direction be issued to

the opposite parties to make payment of his usual emoluments with effect from 5.10.1984 till he actually joined the post on 1.6.1987.

2. At the outset we may say that Mr. Ray rightly and fairly did not press the prayer of the petitioner regarding computation of seniority with effect from 18.8.1972 because of the judgment passed by the Hon'ble Supreme Court in SLP No. 9415 of 1987. Hence the Bench is now confined to the prayer of the petitioner regarding payment of emolument with effect from 2.12.1977 to 30.5.1984 and the deem date of qualifying service in the Office of the Regional Director, National Savings.

3. We have heard Mr. P.K. Ray, learned counsel for the petitioner and Mr. U.B. Mohapatra, learned Standing Counsel.

4. At the outset we would unhesitatingly opine that the prayer of the petitioner to grant him emoluments from 2.12.1987 to 30.5.1984 is misconceived, because, this Bench by its judgment passed in Transferred Application No. 39 of 1987 disposed of on 12.5.1987 observed as follows :

" While passing such an order, we would make it clear that from 2.12.1977 till the date of joining of the petitioner in the post which would be given him, the petitioner will not be entitled to any remuneration on the principle of No Work No Pay".

In view of the aforesaid observation of this Bench, prayer of the petitioner to grant him backwages to the petitioner during this period cannot be allowed because we cannot sit over this judgment on an appeal.

We are bound by the observations made by the Bench quoted above. Therefore, this part of the prayer stands rejected.

5. As regards prayer of the petitioner to compute the services of the petitioner for pensionary benefits from 18.8.1972, we find that the judgment passed in T.A. No.39 of 1987, ~~it~~ has been categorically stated that pensionary benefits should be given to the petitioner from 2.12.1977 till the date he actually joins the post. We find no justifiable reason for any apprehension in the mind of the petitioner that his qualifying service will not be computed from 18.8.1972, but the petitioner has such an apprehension ^{because} in the gradation list dated 21.4.1993 ^{was} the joining date of the petitioner has been mentioned as 1.6.1987, i.e. the date on which he joined after the judgment was passed in T.A. No.39 of 1987. Furthermore the petitioner is apprehensive on the order passed by the competent authority on 5.8.1991 (Annex.9) stating that the period from 2.12.1977 to 1.6.1987 will be counted towards the pension of the petitioner.

6. After hearing learned counsel for both sides, we would direct that the seniority list referred to above and the period of counting the services of the petitioner for pensionary benefits be modified to the extent that the petitioner had joined the service on 18.8.1972 and services of the petitioner shall be computed from 18.8.1972 till his date of superannuation

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as qualifying service for computation of pension.

Thus the application is accordingly disposed of.

No costs.


MEMBER (ADMINISTRATIVE)

18 Nov 93


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 18.11.1993/B.K.Sahoo