

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APP LICATION NO. 529 OF 1995.
Cuttack, this the 19th day of August, 2002.

Kirtan Lenka.

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Applicant.

- Versus -

Union of India & Ors.

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Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

V. Srikant
(V. SRIKANTAN)
MEMBER (ADMN.)

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDL.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 529 OF 1995
Cuttack, this the 19th day of August, 2002.

C O R A M:-

THE HONOURABLE MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE)
AND

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL)

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SRI KIRTAN LENKA,
Aged about 55 years,
S/o. Late Mohan Lenka,
residing of Village-Sikula,
PO:Sikula, PS:Purushottampur,
Dist: Ganjam, at present serving
as Chief Secretary, Vigilance
Officer, Orissa State Electricity
Board, Bhubaneswar.

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APPLICANT.

By legal practitioner: M/s. S. Patnaik, P. Routray,
C. Choudhury, B. Moharana,
Advocates.

: Versus :

1. Union of India represented through
the Secretary to Government of India,
Ministry of Home Affairs, New Delhi.
2. State of Orissa represented through
the Chief Secretary to Govt. of Orissa,
General Administration (SE) Department,
Orissa Secretariat, Bhubaneswar.

RESPONDENTS.

By legal practitioner : Mr. B. Dash,
Addl. Standing Counsel (Central)
(For Respondent No. 1)

Mr. K. C. Mohanty,
Government Advocate for State of
Orissa (Respondent No. 2). M

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ORDERMR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

Facts leading to filing of the present Original Application Under section 19 of the Administrative Tribunals Act, 1985 are as follows:

(a) The Applicant, who joined the services on 09-01-1965 in the Orissa State Police Service, earned adverse remarks in his Confidential Character Rolls (in short 'CCR') for the years 1969- 70, 1970-71, and 1971- 72. While still in Orissa State Police Service, he represented to his authorities raising grievances against the recording of the adverse remarks and, his representation (as against the adverse entries for the years 1969- 70) was rejected on 22-06-1973. His other representation (as against the adverse remarks for the years 1970- 71 and 1971- 72) was also rejected on 21-11-1974. There are no materials available on record of this case to show that the Applicant challenged the said orders (of rejection of his representations) dated 22 - 6- 1973/21-11-1974 in any memorial or that he challenged the same in any Court of law at any earliest despatch; although, at the relevant time, the Applicant had the opportunity for redressal of his grievances in the Hon'ble High Court of Orissa in writ Petition(s) under Article 226 of the Constitution of India; which, apparently he

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did not avail.

(b) The Applicant was considered by the Selection Committees (which met on 25-11-1974, 15-12-1974 and on 22-12-1976) which considered the Officers of the status of the Applicant; for being taken on promotion to the Indian Police Service, under Regulation 5(2) of I.P.S (Appointment by Promotion) Regulations, 1955. Applicant was not recommended by the said Selection Committees of the years 1974, 1975 and 1976; apparently because of the aforesaid adverse entries in his CCRs. There are no materials available on record to show that the Applicant ever challenged his non-selection for promotion to Indian Police Service.

(c) However, the Applicant was considered by the Selection Committee, which met on 19-11-1977 and selected the Applicant and, accordingly, he was included/appointed as a Member of the Indian Police Service (by the Government of India) on 13-10-1978.

(d) On 23-12-1981, the Applicant submitted a Memorial for expunction of his adverse remarks (of the years 1969-1970, 1970-1971 and 1971-1972) which was rejected on 18-8-1982. As against the said rejection of his Memorial, the Applicant could have tried to redress his grievances before the
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Hon'ble High Court of Orissa under Article 226 of the Constitution of India or before the Orissa Administrative Tribunal, established under the A.T.Act,1985 framed under Article 323- A of the Constitution of India; which he did not do.

(e) On the other hand, after a lapse of ten years, the Applicant filed an Original Application No.215/1991 in this Bench of the Central Administrative Tribunal; wherein he prayed for expunction of the adverse entries (of the years 1969-1970,1970-1971, 1971-1972 and 1974-1975) earned by him during the period he served as a member of the Orissa (State) Police Service.Apart from delayed approach, the said Original Application No.215/1991 (with the prayer to expunge the adverse remarks earned by the Applicant in his CCRs for the years 1969-1975) was not maintainable in this Tribunal; because that related to the services of the Applicant under the Government of Orissa/in Orissa Police Service. In any event, this Bench of the Tribunal at the relevant time, without granting any relief to the Applicant, left him to redress his grievances before his Authorities (by submitting representation) vide order dated 02-02-1994 of this Tribunal rendered in the said O.A.No.215/91.

(f) The Applicant who slept over the matter for a year till 30-12-1994, submitted a representation

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on that 30-12-1994, which was rejected on 31-7-1995.

(g) After the rejection of the said representation, the Applicant (who faced retirement from service on 30-06-1996) filed the present Original Application on 8th of September, 1995 u/s.19 of the Administrative Tribunals Act, 1985; wherein he has again prayed to quash the order of rejection dated 31-07-1995 and, thereby, he has, virtually, prayed to quash the adverse entries earned by him in his CCRs for the years 1969-70, 1970-71, 1971-72 and 1974-1975, while serving in Orissa State Government Police Service.

2. Respondents, who have filed counter in this case, have raised the question of limitation and as well as the question of jurisdiction of this Tribunal to entertain the present Original Application. It is the case of the Respondents that the grievances of the Applicant, raised against the adverse entries for the years 1969-70, 1970-71 and 1971-72 having been turned down on 22-06-1973/21.11. 1974 and he having not challenged the said unredressed grievances in any court of Law; the same, virtually, that the became final; Memorial (submitted during 1981 i.e. seven years after rejection of the representations) having been rejected on 18-8-1982; the Original Application of the year 1991 (after a lapse of ten years in a wrong forum) was of no assistance to the

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Applicant and that despite of the rejection of his representation (dated 30-12-1994) on 31-7-1995, the present claim of the Applicant is grossly barred by limitation; especially, when the Applicant has gone out of employment on attaining the age of super-annuation on 30-06-1996.

3. To the above stand of the Respondents, the Advocate for the Applicant has tried to explain that by filing repeated representations and Memorials etc., the Applicant was making an attempt for redressal of his grievances outside the Court.

4. Law is well settled that repeated representations/Memorials cannot be a ground to over-reach the objections of delay and laches. The Applicant after rejection of his representations during 1973 and 1974 sat over the matters for about seven years and after rejection of his Memorial in 1981/1982, he again sat over the matter for long ten years. He has given no explanations, in the body of the present Original Application, as to why he wasted the valuable seven years and ten years ($7 + 10 = 17$ years) in between. He also did not immediately represented when this Tribunal gave a pious observation (in O.A.No.215/91) on 2-2-1994. Though he submitted a representation on 30-12-1994 (which was rejected on 31-7-1995) he raised no points

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therein, on merits, to expunge the adverse entries of 25 years past. In the said premises, we are inclined to hold that the grievances of the Applicant, as raised in the present Original Application, is grossly barred by limitation suffers from delay and laches.

5. Apart from the delay and laches, the grievances of the Applicant to expunge the adverse remarks in his CCRs for the period he was in Orissa State Government Police Service is not amenable to be redressed in the Central Administrative Tribunal (and, apparently, his grievances were/are amenable to be redressed in the Hon'ble High Court of Orissa before 1985-86 and in the Orissa Administrative Tribunal after 1985-86. Therefore, in the said premises, we are inclined to hold that the present Original Application is not maintainable in this Tribunal in the present forum.

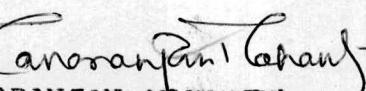
6. In this Original Application, the Applicant has virtually, prayed to antide his inclusion in the Indian Police Service from a date prior to 13.10. 1978 i.e. the date on which he was appointed by the Government of India in Indian Police Service. For the reason of the aforesaid adverse entries in his CCRs (while he was in Orissa Police Service), the Selection

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Committee could not select him during the years 1974, 1975 and 1976. Thus, indirectly, the Applicant has tried to challenge the findings of the Selection Committees of the years 1974, of the year 1975 and of the year 1976 in the present Original Application filed in the year 1995 i.e. after a lapse of 20 years. If his present prayer to anti-date his inclusion in the Indian Police Service in the years 1977-78 (to the year 1974, 1975 and 1976) are acceded to, then the Applicant would only be entitled to financial benefits; which cannot be granted to him at this belated stage; because that becomes a money claim only and such a money claim, being grossly barred by limitation is also not available to be granted.

7. Thus, judging from all angles, the present Original Application is dismissed but, however, without passing any order as to costs.


(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 19/08/2002

KNM/C. M.