

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 531 OF 1998.
Cuttack, this the 14th day of February, 2000.

K.N.RAO.

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APPLICANT

- VERSUS -

UNION OF INDIA & ORS.

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*

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
1.2.00

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.531 OF 1998.

Cuttack, this the 14th day of February, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. G.NARASIMHAM, MEMBER (JUDL.).

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K.N.RAO,
S/o. late K.Apparao,
Aged about 54 years,
Sr.PA to Member Income Tax
Appellate Tribunal, Cuttack
Bench(Near Nishamani)
Link Road, CUTTACK-12.

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APPLICANT.

By legal practitioner: Applicant in person.

-VERSUS-

1. Union of India through Secretary to Government of India, Ministry of Law and Justice, Department of Legal Affairs, New Delhi.
2. President, Income-tax Appellate Tribunal, Old CGO Building, 4th floor, 101 Maharshi Karve Road, MUMBAI-400 020.
3. Registrar, Income-tax Appellate Tribunal, Old CGO Building, 4th floor, 101 Maharshi Karve Road, MUMBAI-400 020.
4. Assistant Registrar, Income-tax Appellate Tribunal, Link Road, (Near Nishamani), CUTTACK-753 012.

... RESPONDENTS.

By legal practitioner: Mr.S.B.Jena, Additional Standing Counsel(Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for correcting the seniority list of Sr.PAs as on 1-10-1997 and the seniority list of Senior Stenographer as on 01-01-1975 alongwith a declaration that he was regularly appointed as Senior Stenographer with effect from 23-5-1970. He has also prayed for restoring his seniority in the grade of Sr.PA within a period to be stipulated by this Tribunal.

2. Facts of this case fall within a small compass and can be briefly stated. The applicant was working as Stenographer(Ordinary grade) in the Office of the Deputy Collector of Central Excise and Customs Bhubaneswar. In order dated 22-5-1970, he was relieved of his duties in that office on 22-5-1970 to join his new place of posting in the office of the Income-tax Appellate Tribunal, Cuttack Bench. Accordingly, applicant joined in the Office of the Assistant Registrar, Income-tax Appellate Tribunal, Cuttack on 23-5-1970. In order, dated 12.2.1973, at Annexure-2, it was ordered that the applicant who was appointed as a Senior Stenographer from 23.5.1970 on a temporary basis will now continue to officiate as Senior Stenographer on regular basis with effect from 18.1.1973 against a newly created post of Senior Stenographer. It was also ordered that he would be on probation for two years from 18.1.1973.

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In the seniority list of Senior Stenographers, showing the position as on 1.1.1975, which is at Annexure-3, the applicant's name was shown against Sl.No.55 in which his date of regular appointment to the post was shown as 18.1.1973 i.e. the date indicated in the order at Annexure-2. Again in the seniority list of Sr.PAs, showing the position as on 1.10.1997, applicant's name has been shown against Sl.No.17 in which his date of regular appointment as Sr.Stenographer has been shown as 18.1.1973. Applicant has prayed in his petition to quash these two seniority lists at Annexures-3 & 12. He has also prayed for a declaration that his appointment as Senior Stenographer from 23-5-1970 should be taken as the date of regular appointment instead of the date 18.1.1973.

3. Respondents, in their counter, have opposed the prayer of applicant stating therein that the seniority list of Senior PAs, at Annexure-12 is in effect and extension of the seniority list at Annexure-3. Respondents have stated that while circulating the seniority list at Annexure-3 in 1975, persons were asked to file representation within one month. Applicant did not file any representation within that period. He filed representation only on 10.5.78. These have been mentioned by the Respondents in para-14 of the counter, which have not been denied by the applicant in his rejoinder. From this, it has to be taken that the applicant has filed his representation against the seniority list at Annexure-3 only on 10-5-78. Respondents have

further stated that the applicant has come up after more than twenty years to correct the settled position of seniority list and he should not be permitted to do so. They have also stated that the cause of action having arisen in the year 1975 when the seniority list in the rank of Senior Stenographer was circulated, the Tribunal can not entertain the applicant's grievance the same having been arisen beyond the period of three years from the date of establishment of the Tribunal. On the question of merit, the Respondents have stated that the applicant was appointed on temporary basis w.e.f. 23.5.1970 and he was given appointment only on 18.1.1973 and accordingly, his seniority in the rank of Senior Stenographer has been reckoned from 18.1.1973 and this has been continued in the seniority list published for SR.PAs at Annexure-12. On the above grounds, the Respondents have opposed the prayers of the applicant.

4. Petitioner, in his rejoinder has reiterated his averments made by him in the Original Application and we have taken note of the same.

5. We have heard Mr. K.N.Rao, petitioner in person and Mr. S.B.Jena, learned Additional Standing Counsel (Central) appearing for the Departmental Respondents and have also perused the records.

6. From the above pleadings of the parties, it is clear that the seniority list of Sr.PAs, as on 11-1-1997 is merely an extension of seniority list of

Senior Stenographers which was circulated in 1975.

Applicant has also stated that the post of Senior Stenographers were up-graded to the post of Sr.PAs.

From this, it is clear that the seniority of the applicant has been fixed by taking into account his regular appointment as Senior Stenographer w.e.f.

18-1-1973 and this seniority list was published in 1975. Therefore, the grievance of the applicant, if any, with regard to reckoning his seniority w.e.f. 18.1.73 would have arisen in 1975 after publication of the seniority list. In view of this, obviously, the present claim of the petitioner for quashing the seniority list of 1975 is grossly barred by limitation and can not be entertained. As the seniority list at Annexure-12 is merely an extension of seniority list of Senior Stenographers, circulated in 1975 and the post of Sr.PAs being merely an upgraded version of the post of Senior Stenographers, his prayer for quashing the seniority list at Annexure-12 is held to be without any merit. It is submitted by the petitioner, in person, that he has been corresponding with the Department continuously over these years and the Department has been holding ^{out} hopes that his case will be considered and shortly decided. In support of his contention, the petitioner has referred us to Annexure-8 which is a letter written by him to the Registrar, Incometax Appellate Tribunal, Bombay in which applicant has quoted their letter dated 13-8-91 issued to him, by the Registrar, Incometax Appellate Tribunal, Bombay, has not been denied by the

Respondents, in their counter. In the last para of the letter at Annexure-8, the following has been mentioned:

"Shri K.N.Rao, Personal Assistant to Member may be informed that a similar matter is pending decision with the Ministry of Law and his application is kept in abeyance till the matter is finally decided by the Ministry".

7. From this it appears that in 1991, the applicant was informed that a similar matter is pending decision with the Ministry of Law and his claim for fixation of seniority is kept in abeyance till the matter is finally decided by the Ministry. Respondents have not mentioned that after 1991 any order was issued to the applicant rejecting his representation, and therefore, it must be presumed that in continuation of this letter, extract of which has been quoted at Annexure-8, the representation of the applicant is still pending with the Respondents. The applicant has also submitted that after Annexure-8, he has merely been asked to furnish certain other documents in letter dated 16.5.1997, at Annexure-9 and he has done so in his letter dated 1.7.97, at Annexure-10. In consideration of the above, while we decline to entertain the petition of the applicant, we direct the Respondents that in case no decision has been taken ⁱⁿ furtherance to the order dated 13.8.1991 with regard to the case of the applicant, the same should be done and let a final decision be taken

S. J. S. M.

within a period of 120 days from the date of receipt
of a copy of this order.

8. With the above directions, the Original
application is disposed of but in the circumstances,
without any order as to costs.

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(G.NARASIMHAM)  
MEMBER(JUDICIAL)

KNM/CM.

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(SOMNATH SOM)  
VICE-CHAIRMAN  
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