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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.180 OF 2000
Cuttack this the 09th day of April/2001

Sri Rajaya Bosi

.....

Applicant(s)

-VERSUS-

Union of India & Others

.....

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes.*
2. Whether it be circulated to all the Benches of the *wo* Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE CHAIRMAN
9.4.2001

9.4.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO.180 OF 2000
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CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

.....

1. Sri Rajaya Bosi, aged 70 years,
S/o. Late P.Bosi Retired Postal
Officer, Postal Colony,
Parlakhemundi-761200
District, Ganjapati (Orissa)

By the Advocates -

Applicant appeared in person.

Applicant
None

-VERSUS-

1. Union of India Represented
by the Secretary Ministry of
Communication Govt. of India,
New Delhi.110001
2. The Director General Postal
Daktar Bhawan, New Delhi.110001
3. The Chief of Post Master General
Orissa, Circle, Bhubaneswar-751001

By the Advocates -

Respondents.

J.K.Nayak
A.S.C

...

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): This application has been filed on 14.2.2000 by Shri Rajaya Bosi, who while serving in the Postal Departments retired as Inspector of Post Offices on 31.5.88. He himself appears to have drafted the application and sought for the following two reliefs:-

"(a) In view of genuine facts mentioned in para 4 with recorded proof about the petitioner prays for the following relief for justices, in the country for any person in future, so please issue direction to the respondent to payment of all arrears as deem fit as per the Hon'ble Court from 1.6.1974 till today with interest.

(b) The applicant, leave to the Hon'ble Court to grant such relief as deem fit in the circumstance as all the genuine facts of the case as compensation."

2. He joined the Postal Department on 23.6.1953 as Clerk. He was promoted to the rank of Inspector of Post Offices on 4.6.1974 in the scale of Rs.425-700/-. At first he was not shown as qualified to be Inspector of Post Offices in the Departmental Examination held in November, 1972. But ultimately from the level of DGP he secured an order of having qualified in the Examination. In the meanwhile two of his juniors Sri Udayanath Mohapatra & Arakhita Behera became Inspectors and applicant's pay has not been refixed at par with his two juniors and this non-fixation continued till his retirement. Hence this application.

3. The Department in their counter have taken the stand that

this Original Application is hopelessly barred by limitation. The two junior officials named in the Original Application have since retired. The applicant at no point of time brought the fact of re-fixation of his pay at par with his juniors to the notice of the Department. He had also not prayed for refixation before any Court though he had occasion to file before the High Court of Orissa and this Tribunal the following cases:-

O.J.C NO.1839/1984
 O.J.C NO.4532/98-P
 O.A. No.60/1987
 O.A. No.337/1987
 O.A. No.336/1987
 O.A. No.119/1988
 O.A. No.230/1991
 O.A. No.577/1997
 O.A. No.648/1999

For the first time and that too twelve years after retirement he has approached this Tribunal with this specific prayer which cannot be entertained on the ground of limitation.

4. The applicant filed rejoinder making out his case in an argumentative form, but without specifically denying the factual averments made in the counter.

5. We have heard the applicant in person. So also Shri J.K. Nayak, the learned Addl.Standing Counsel for the Department. Also perused the record. On 15.5.2000 this application was entertained by this Bench with an order to issue notice on the respondents. Then it was made clear that the points of limitation and maintainability are kept open. Notices were issued on respondents for hearing and final disposal at the stage of admission. In other words, the Original Application

was not admitted and points of limitation and maintainability were kept open.

6. The applicant wants re-fixation of his pay w.e.f 1.6.1974. According to him, though the cause of action, arose in June 1974 itself, due to non-fixation, the same is continuing. It is the categorical case of the Department that the applicant on no occasion moved the Department for such re-fixation, even though cause of action for re-fixation actually arose in June, 1974 itself. The Central Administrative Tribunals in India began functioning only from 1.11.1985 onwards. Under Section 21(2) of Administrative Tribunals Act 1985, this Tribunal is debarred from entertaining an application, the cause of action of which arose prior to 3 years preceeding the date on which this Tribunal began functioning. Thus, this application is not maintainable before this Tribunal. As per the period of limitation prescribed under Section 21 of the Act, this Original Application is hopelessly barred since it is filed 12 years after the retirement of the applicant, even if the applicant's contention of continuance of cause of action is accepted, it at best continued upto the date of his retirement on 31.5.88.

7. In Ramesh Chandra Sharma Vrs. Uddham Singh Kamal, AIR 1999 S.C 3837, the Apex Court deprecated the practice of Tribunals deciding the Original Applications on merits overlooking the statutory provisions under Section 21 of Administrative Tribunal Act in regard to the limitation. Even a larger Bench of the Apex Court in Chandra Kumar's case reported in A.I.R 1997 S.C 1125, in para 16 specifically

observed that Section 21 of the Administrative Tribunal Act specifies strict limitation period and does not vest the Tribunal under the Act with power to condone delay. If this observation of the Apex Court is read alongwith provisions of Section 21(3) of the Administrative Tribunals Act, giving discretion to condone delay, delay, if any, can be condoned in a very very rare and exceptional case and that too when a separate application supported by an affidavit is filed for condonation of delay under Rule 8(4) of the C.A.T (Procedure) Rules, 1987. No such application has been filed for condonation of delay. Hence question of condonation of delay does not at all arise.

8. Even if the applicant had the legal entitlement of his pay refixed with effect from 1.6.74 soon after his joining as Inspector of Post Office on 4.6.74, and this having been not done, this Tribunal has no jurisdiction to decide whether such refixation of pay was to have been made in 1974 because of the bar under Section 21(2) of the Administrative Tribunals Act in entertaining an application the cause of action of which arose prior to three years preceding the date of commencement of functioning of the Tribunal on 1.11.1985. Thus this application is also not maintainable.

9. In the result, this application is not admitted and is dismissed as the same ^{under} being barred by limitation is also not maintainable.

(Signature)
(SOMNATH SOM)
VICE-CHAIRMAN

(Signature) 2.6.2014
(G.NARASIMHAM)
MEMBER (JUDICIAL)