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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.186 OF 2000
Cuttack this the 31st day of March/2004

Abhimanyu Satapathy ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *AB*
2. Whether it be circulated to all the Benches of *AB*
of the Tribunal or not ?

For
31/03/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.186 OF 2000
Cuttack this the 31st day of March, 2004

CORAM:

THE HON'BLE MR.B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER (JUDICIAL)
...

Abhimanyu Satapathy, aged about 47 years, S/o. late
Khetrabasi Satapathy, Plot No.3323(a), At-Kharakhia-
baidyanath, Old Town, Bhubaneswar-2 - now working
as U.D.C. in the office of Superintending Archaeologist,
Bhubaneswar Circle, Dist-Khurda

... Applicant

By the Advocates

M/s.B.N.Nayak
B.B.Mohapatra

-VERSUS-

1. Union of India represented through the Secretary,
Ministry of Culture, Shastri Bhawan, New Delhi
 2. Director-General, Archaeological Survey of India
Janapath, New Delhi-11
 3. Superintending Archaeologist, For Museums &
Archaeological Survey of India, Museum Branch,
Indian Museum, Jawaharlal Nehru Road, Calcutta-17
West Bengal
 4. S.K.Bhatia, U.D.C., Office of the Superintending
Archaeologist, Archaeological Survey of India,
SCO-2909-10, Sec. 22C, Chandigarh Circle,
Chandigarh
 5. M.M.Biniwale, U.D.C., Office of the Superintending
Archaeologist, Archaeological Survey of India,
Vadodara Circle, Madhav Bauh, Makarpura Road,
Vadodra, Gujarat
 6. Suresha Sahoo, U.D.C., Office of the Superintending
Archaeological Survey of India, Agra Circle,
Tajmahal Agra, 22, The Mall, Uttar Pradesh
 7. Smt.Vijaya Raina, U.D.C., Office of the Superintending
Archaeologist, Archaeological Survey of India,
Srinagar Circle, Mintoo Building, Raj Bagh, Jammu
Jammu & Kashmir
 8. Smt.V.Mirabai, U.D.C., Office of the Archaeological
Chemist, Archaeological Survey of India, Fort,
St.George, Madras-600 009, CHENAI
 9. H.C.Ravi, U.D.C., Office of the Superintending
Archaeologist, Archaeological Survey of India,
22, The Mall, Agra Circle, Taj Mahal, Agra,
Uttar Pradesh
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10. Sadvir Singh Bhaiya, U.D.C., Office of the Superintending Archaeologist, Archaeological Survey of India, Delhi Circle, Safdarjung, New Delhi-110 003
11. S.R.Prasad, U.D.C., Office of the Superintending Archaeologist, Archaeological Survey of India, No.364, 16th Main Jayanagar, Bangalore Bicel, Bangalore, Karnataka
12. Tarachand, U.D.C., Office of the Superintending Archaeologist, Archaeological Survey of India, Agra Circle, Taj Mahal, 22, The Mall, Agra, Uttar Pradesh-282 001

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Respondents

By the Advocates

Mr.A.K.Bose, SSC

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O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: Shri Abhiram Satpathy, (applicant) now working as Upper Division Clerk(in short U.D.C.) in the Office of the Superintending Archaeologist, Bhubaneswar Circle, Khurda, has filed this Original Application ~~challenging~~ his seniority position as U.D.C. published by the Respondents as on 1.1.1994.

2. His grievance is that as per the seniority list of Lower Division Clerk(in short L.D.C.) as on 1.9.1994 he has been placed at Sl.No.37 whereas one Shri Suresh Baboo has been placed at Sl.No.29 of the list, which shows that the seniority list has not been maintained according to merit position of the successful candidates in the Departmental Examination held in the year 1977. He has further submitted that he had raised the issue regarding fixation of seniority treating the date of appointment in the post of L.D.C. as on 17.10.1977 in O.A.569/95, which was decided on 12.5.1997. While disposing of the said O.A. certain directions were issued by the Tribunal with regard to his position in the list of successful

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candidates in the Departmental Examination and in case the position of the applicant required to be changed in terms of the above order, then the same should be done and the appellant be intimated within a period of three months from the date of receipt of copy of that order by the Respondents. In the instant O.A. also, the prayer of the applicant reads as under.

"...in the circumstances of this case, the Respondents No.1 to 3 may be directed to recast the seniority of the applicant, treating the Respondents No.4 to 13 are juniors to the applicant in respect of the seniority list as on 1.9.1994 of L.D.C., Archaeological Survey of India with all consequential benefits of promotion and pay etc."

3. The Respondents-Department by filing a detailed counter have stated that as the selfsame matter, i.e., re-fixation of seniority treating the date of appointment in the cadre of L.D.C. on 17.10.1977 have already been disposed of earlier in the aforementioned O.A. filed by the applicant, the matter having reached finality, the applicant is precluded from re-agitating the same issue in this O.A. We also find from the records placed before us (Annexure-R/4) that in pursuance of the judgment dated 12.5.1997 of this Tribunal in O.A.569/95, the Respondents had intimated to the applicant that his position in the seniority list of L.D.Cs in 1994 and 1997 had been fixed as per his position in the list of successful candidates in the departmental examination held in 1977. They have further submitted that no person junior to the applicant in the list of successful candidates in the departmental competitive examination had been promoted to the post of


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U.D.C. except one Shri Nand Kishore Kandy as the latter was promoted to the post of U.D.C. against reservation quota. The applicant not being satisfied had brought this matter before this Tribunal in C.P. No.25/98, which was disposed by this Tribunal in order dated 8.2.2003 to the effect as under:

" We hold that this C.P. is misconceived and accordingly dismissed. Notices issued to alleged contemnors are discharged".

This being the fact of the case, we are of the opinion that the present O.A. besides being hit by the principles of constructive resjudicate, is grossly barred by limitation. In the circumstances, we have no option but to dismiss this O.A. being hit by the principles of resjudicata and barred by limitation. Ordered accordingly.

No costs.


(M.R. MOHANTY) 31/03/04
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

BJY