

**CENTRAL ADMINISTRATATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.565/2001

Cuttack, this the 10th day of August, 2004

Narahari Jena **Applicant(s)**

Vrs.

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

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 Tribunal or not? *NO*

Johny
10/08/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
&
HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Narahari Jena, aged about 62 years S/o Late Krushna Chandra Jena, previously working as Enforcement Officer in the Ofice of Regional Provident Fund Commissioner Orissa, Bhuabneswar

..... Applicant.(s)

By the Advocate(s) M/s H.P. Rath
D.K. Mohanty

-Vs-

1. Union of India represented through the Regional Provident Fund Commissioner, Bhavishya Nidhi Bhawan, Janpath, Unit-IX, Bhubancswar-751007
2. Central Provident Fund Commissioner 9th Floor Mayur Bhawan Cannaught Circus, New Delhi-110001
3. Chairman, Central Board of Trustees, Sharamasakti Bhawan, New Delhi-1.

..... Respondent(s)

By the advocate(s) Mr. S.S. Mohanty

ORDER

SHRI B.N. SOM, VICE-CHAIRMAN: Shri Narahari Jena, retired Enforcement Officer in the Office of Regional Provident Fund Commissioner Orissa., Bhubaneswar has filed this Original Application challcnging his seniority position as fixed by the Respondent in the Gradation List of Enforcement Officers/Assistant Accounts Officers/Superintendents (Annexure-2).

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2. The grievance of the applicant is that while in service he had been representing about promotion of one Shri Nilamani Pradhan to the post of Head Clerk, on regular basis earlier than him and who was Junior to him in the basic grade and that this anomaly should have been corrected. Having not received any relief from the Respondents the applicant had approached this Tribunal in O.A. No.329/1990, regarding non inclusion of his name in the Gradation Lists by the Department on 01.08.1990 and 01.01.1991. The said O.A was disposed of with direction to Respondents to recast gradation list vide order dated 18.12.94 in accordance with the judgment delivered by the Full Bench of the C.A.T. Principal Bench in T.A. 43/87 in the case of Ashok Ku. Meheta and others Vrs. RPFC and others. It is the case of the applicant that although this Tribunal in O.A. No.329/90 specifically directed the Respondents to take into consideration the grievance of the applicant while recasting the gradation list, *nor* the order of this Tribunal in O.A. No.329/1990 *was not implemented* -

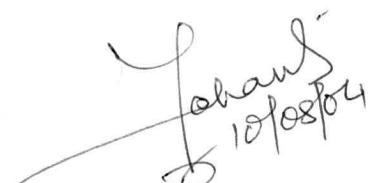
3. The Respondents have opposed the application by filing a detailed counter wherein they have raised the following points. (a) The O.A. is liable to be dismissed on the ground of limitation as a draft seniority list of 1995 could not be challenged in the year September, 2001. (b) The O.A. is premature and not maintainable as Annexure-2 is a draft seniority list and it was open to the applicant to point out errors and omissions in the draft

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seniority list for correction. (c) Shri Nilamani Pradhan had marched over the applicant although he is Junior to him on the ground that Shri Pradhan was promoted and appointed as Head Clerk with effect from 09.11.1972, after qualifying in the Departmental examination, whereas the applicant had never availed of that opportunity. (d) Finally, the claim of the applicant is that his ad-hoc service should be taken into account for the purpose of seniority is not admissible. With these submissions, the Respondents have opposed the prayer of the applicant.

4. We have heard the Ld. Counsel for both the sides and perused the materials available on record. We agree with the submissions made by the Ld. Counsel for the Respondents that this O.A. is hopelessly barred by limitation and therefore, the applicant, after a long lapse of time is estopped to agitate his seniority position, particularly when he was afforded opportunities to have his say. On merit of the case also, it appears that the applicant has no case, because, his allegation that his junior, viz Shri N. Pradhan was given promotion earlier than him is factually incorrect, as Shri Pradhan was promoted to Head Clerk on his qualifying in the departmental examination but not against the seniority quota. A long drawn battle with regard to seniority of the personnel of Provident Fund Organisation has been set at rest with the pronouncement of the judgment passed in the case of Ashok Ku. Meheta (Supra) followed by the order of

the Ernakulam Bench in N. Ravindran's case and further vide the order of this Tribunal dt. 28.01.03 in O.A. No.908/96. As the principles of determining seniority of promotees under seniority quota and the examination quota have already been settled and we have been informed that the Respondents had already published the revised seniority list on the principles laid down in the order dt.11.06.03 passed by this Bench and have asked the officials to represent with regard to errors and omissions, if any, in the said seniority list, we dispose of this O.A. by giving a direction to the applicant that, if so desired, he may file a representation to Respondent No.1, ventilating his grievance, as he had disclosed during oral argument that his name did not appear in the seniority list, although names of several retired officials are appearing and in the event such a representation is filed by the applicant, Respondent No.1 shall dispose of the same with a reasoned and speaking order, within four corners of Rules, within a period of two months from the date of receipt of such representation. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar