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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.


Original Application No.364 of 2003  
Cuttack, this the 21<sup>st</sup> day of May, 2009

U.A.N.Raju	Versus	.... Applicant
Union of India & Ors.		.... Respondents

FOR INSTRUCTIONS

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

  
(JUSTICE K.THANKAPPAN)  
MEMBER (JUDICIAL)

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A.No.364 of 2003

Cuttack, this the 21<sup>st</sup> day of May, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

.....  
U.A.N.Raju aged about 49 years, son of U.Satyanarayan Raju  
presently posted as Chief Health Inspector, Gr.II East Coast  
Railway, Waltair Division at Rayagada, PO/PS/Dist. Rayagada,  
Orissa.

.....Applicant

Advocate for Applicant: M/s.Y.Mohanty, B.N.Mohanty,  
B.P.Das

-Vs-

1. Union of India represented through the General Manager, East Coast Railway, Chandraekharapur, Bhubaneswar.
2. Chief Personnel Officer, Office of the CPO, S.E.Railway, Garden Reach, Kolkata.
3. Chief Personnel Officer, East Coast Railway, Chandrasekharapur, Bhubaneswar.
4. Divisional Railway Manager (P), East Coast Railway, Waltair.

..... Respondents

Advocate for Respondents: Mr.T.Rath.

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

Applicant is working as Chief Health Inspector, Grade II of East Coast Railway, presently posted at Waltair Division of Rayagada. He has filed this Original Application challenging the order under Annexure-5 dated 02.05.2003 rejecting his prayer in regard to seniority. He has also sought direction to the Respondents to act on the letter under Annexure-1 dated 20.12.1994 & Annexure-2 dated 11.02.1995. It is seen from the record that the order

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under Annexure-5 dated 02.05.2003 was in accordance with the order of this Tribunal in OA No. 1201 of 2002 under Annexure-4 dated 13.01.2003. This Tribunal directed the Respondents to consider the representation of the Applicant.

2. Respondents by filing counter opposed the contentions of the Applicant made in support of the relief claimed by him in the Original Application.

3. Heard Learned Counsel for both sides and perused the materials placed on record.

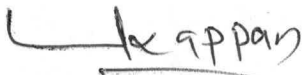
4. It is not necessary to record all the contentions raised in the respective pleadings and arguments advanced by the parties in support thereof as on perusal of the records, it is seen that the dispute in question was already raised by the Applicant before the Hyderabad Bench of the tribunal in OA No. 128/87 which was dismissed by the Tribunal in order dated 14.09.1989. Challenging the said order the Applicant preferred SLP (Civil) No.2441/1990 before the Hon'ble Supreme Court and in fact with some observations, the Hon'ble Supreme Court upheld the order of the Tribunal vide its order dated 30.04.1990. Thereafter, the Applicant again approached the Hyderabad Bench of the Tribunal in OA No. 442 of 1994 seeking implementation of

the letter under Annexure-2 dated 11.02.1995 and the same was dismissed by the Hyderabad Bench on 24.1.1995; after which the Applicant approached this Tribunal in OA No. 1201/2002 and on 13.1.2002 this Tribunal disposed of the aforesaid OA at the admission stage by directing the Respondents to consider the representation of Applicant. The Respondents pursuant to the direction of this Tribunal considered the representation of the Applicant and rejected the grievance of applicant and communicated the same through letter under Annexure-5. After this order, the applicant has approached this Tribunal claiming implementation of the order made by the authority long before filing of this OA. Since the grievance of the applicant has already reached a finality by the order of the Hyderabad<sup>Bench</sup>, the present Original Application is clearly hit by the principle of constructive *res judicata*. Besides, the applicant seeks direction to the Respondents to act upon the communication of the years 1994 and 1995. As such this case is also hit by the law of limitation. Subsequent order of rejection of the representation under Annexure-5 cannot give a fresh cause of action which has already been set at rest long years ago by the order of the Hyderabad Bench of the Tribunal as held by the Hon'ble Apex Court in

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the case of **C.Jacob v Director of Geology and Mining and another**, AIR 2009 SC 264. That apart in case the prayer of the applicant is allowed the person who would be affected by the order of this Tribunal has not been made as a party to this OA.

5. In view of the discussions made above this OA deserves to be dismissed and is accordingly dismissed. No costs.



(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)



(C.R. MOHAPATRA)  
MEMBER (ADMN.)