

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 706 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.
Hon'ble Mr. G. S. Maingi, Administrative Member.

MRINAL KANTI GHOSH & ANOTHER

Vs.

UNION OF INDIA & ORS.

For the applicants : Mr. Asit Banerjee, counsel.

For the respondents: Mrs. Uma Sanyal, counsel.

Heard on : 28.1.2000

Order on : 28.1.2000

ORDER

D. Purkayastha, J. M.

The question for decision before us is whether the judgment dated 11th January, 1990, passed in O.A. No. 145 of 1989 by the Patna Bench of the Tribunal is a judgment in personam ~~or~~ a judgment in rem as stated by the respondents vide their letter dated 4th January, 1996, at annexure 'C' of the O.A.

2. The applicants being aggrieved by the order dated 4.1.1996 of the respondents, have approached this Tribunal by filing the instant O.A.

3. According to the applicants, they are holding the post of Professional Assistant under the respondents and in this application they have sought for extension of benefit of the judgment dated 11.1.1990 passed by the Patna Bench of the Tribunal

in O.A.145 of 1989, relying on two Principal Bench judgments dated 27.7.1987 and 21.10.1988 (B.D.Varma vs. Union of India) and (R.L.Khera vs. Union of India), on the ground that the applicants of that case being holders of the post of Professional Assistant got the benefit of extension as admissible under FR 22-C on their being promoted to the post of Professional Assistant. It is stated by the ld.counsel for the ~~applicants~~ that the ratio of the decision laid down in the judgment of the Patna Bench cannot be said to be a judgment in personam.

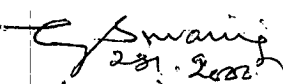
4. We find that a similar question of law has been considered by the Principal Bench, as is evident from paragraph 4 of the judgment of the Patna Bench of the Tribunal passed in O.A. No.145 of 1989. It is noted by us that similar contention was raised by the respondents but that was turned down. We also endorse the same view of the Patna Bench.

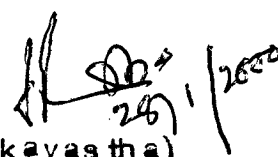
5. In view of the principles laid down in the abovementioned judgment, we are of the view that the judgment passed by the Patna Bench cannot be said to be a judgment in personam but a judgment in rem. We also rely on the judgment of the Supreme Court passed in the case of K.C.Sharma & Ors. vs. UOI & Ors. (1998 (1) AISLJ 54). We are of the view that employees similarly circumstanced, should not be discriminated in the matter of extension of benefits.

6. In view of the above, this application is disposed of with a direction upon the respondents to grant all reliefs to the applicants, as prayed for in this O.A., in the light of the judgment passed by the Patna Bench of the Tribunal in O.A.No.145 of 1989 (annexure 'A'), within three months from the date of communication of this order. As a result, the order dated 4th January, 1996 (annexure 'C' to the O.A.) is hereby set aside.

7. Regarding the claim for interest, as prayed for by the ld. counsel for the applicants before us, we do not find any merit in the same. As such, no order is passed on the question of interest.

8. This application stands disposed of with the above directions. No order is passed as to costs.


(G.S. Maingi)
Administrative Member


(D. Purkayastha)
Judicial Member