

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 59 of 96

Date of order : 4.1.2005

Present : Hon'ble Mr.A.V.Haridasan, Vice-Chairman(J)
Hon'ble Mr.G.R.Patwardhan, Administrative Member

B. K. DUTTA

VS

UNION OF INDIA & ORS.

For the applicant : Mr.B.Mukherjee, counsel

For the respondents: Mr.M.S.Banerjee, counsel

O R D E R

A.V.Haridasan, VC(J)

The applicant who came in service as 'C' Gr.Clerk on 4.4.45, promoted as 'B' Gr.Clerk in the month of August/September, 1946 and retired from service on 1.10.85 after serving as Assistant Superintendent, has filed this application praying that the respondents be directed to give the applicant promotion stage by stage to the higher post of Superintendent and thereafter as Administrative Officer treating him to have been promoted as UDC on 1.1.47 till 1.10.85 with all consequential benefits. It is alleged in the application that the First Central Pay Commission in their report submitted in May 1947 recommended the pay-scale of Rs.50-130/- for L.D.Clerk and Rs.80-220/- for U.D.Clerk w.e.f. 1.1.47. That inspite of the said recommendations the respondents did not give the applicant placement in the higher scale w.e.f. 1.1.47 and has also not given him promotion stage by stage with the result he suffered both in status and emoluments. That the Tribunal had in TA 1055/86 dated 5.5.88 permitted placement of the 'B' Gr.Clerks in the scale of Rs.80-220/w.e.f. 1.1.47 and give them the benefits although the applicant was not a party, he was granted the financial benefits but was not given promotion stage by stage and that therefore he is entitled to get the benefits.

2. The respondents resisted the claim of the applicant primarily on the ground that the application is hopelessly barred by limitation as the applicant who retired in 1985 cannot claim promotion

after a decade of his retirement and that promotion cannot be claimed as a matter of right. Even on merits the application does not have any sustainable claim.

3. We have perused the pleadings and heard both sides at length. We find suitable force in the arguments of the 1d.counsel for the respondents that the application is hopelessly barred by limitation. ^{as} The applicant who retired ~~long~~ back in 1985 has come up with his claim for promotion in 1996. The judgment relied upon by the applicant is not a judgment in rem but a judgment in personam because direction was given to place the applicant in the pay-scale of Rs.80-220/- w.e.f. 1.1.47. However, the respondents have given the benefits to the applicant although the applicant was not a party to the said application. There was no direction to give promotion to the persons who have already retired. In the light of what is stated on the ground of limitation as well as merits, the application fails and it is dismissed. No order as to costs.

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MEMBER(A)

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VICE-CHAIRMAN(J)