

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH : JODHPUR

Date of order : 22.12.98.

O.A. No. 384/1995

Achyuta Nand Pandey son of late Shri B.N. Pandey by caste Bramin aged about 46 years at present working as Inspector, Customs Division, Bikaner.

... Applicant.

v e r s u s

1. The Union of India through its Secretary to the Government, Central Board of Excise and Customs, North Block, new Delhi.
2. The Collector, Costoms and Central Excise, C.R. Building, Statute Circle, 'C' Scheme, Jaipur.
3. The Deputy Secretary to the Government of India, Department of Personnel and Training & Administrative Reforms, Nirwachan Sadan, New Delhi.

... Respondents.

Mr. S.N. Trivedi, Counsel for the applicant.

Mr. K.S. Nahar, Counsel for the respondents.

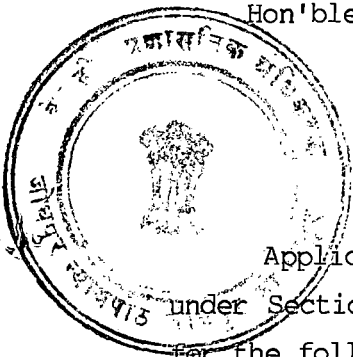
CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Singh)

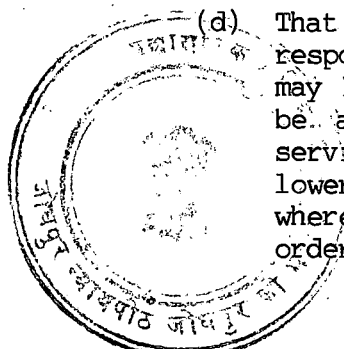


Applicant, Achyuta Nand Pandey, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

"(a) That the letter dated 29th January, 1992 (Annex. A/1) may be quashed and set aside being arbitrary, illegal and unconstitutional.

Gopal Singh

- (b) That the benefits of past services rendered on the post equal to and higher than to the grade of Inspector be counted as qualifying for promotion to the grade of Superintendent in terms of the Hon'ble C.A.T., Chandigarh Bench cited in 1989 (9) A.T.C. 491.
- (c) That instructions 4.3.1 (11.1 as referred by the respondents) may be struck down being ultra vires and the relaxation clause may be added in the instructions to the extent to give benefit of surplus staff who has rendered services on higher post and re-deployment to the lower post, for the purpose of service benefits including seniority and promotions.
- (d) That the instructions 4.3.1 (11.1 as referred by the respondents) in respect of re-deployment of Surplus Staff may be struck down upto the extent that seniority should be assigned to an employee after computing the past services rendered on higher post and on redeployed to the lower post and lower pay scale and especially in the case where no condition has been imposed in the appointment order at the time of re-deployment."



2. Applicant's case is that he was initially appointed as Probation Officer Grade II / Case Worker on 5.3.1973 in the Directorate of Social Welfare Department, New Delhi. Thereafter, by due selection through UPSC, he was appointed on the post of Deck Passenger Welfare Officer in the pay scale of Rs. 650-960 in Merchantile Marine Department, Calcutta, on 31.8.1981. Thereafter, the applicant was declared surplus with effect from 11.6.1987. On redeployment, the applicant was appointed on the post of Inspector (Gr.'C' non-gazetted) in the Collectorate of Customs and Central Excise, Jaipur, and has been placed on the bottom of seniority list of the Inspectors. The contention of the applicant is that his past service in the Merchantile Marine Department where he held Gr. 'B' post should be counted for the purpose of seniority in the cadre of Inspectors in the Collectorate of Customs and Central Excise, Jaipur.

3. Notices were issued to the respondents and they have filed their reply contesting the application. It has been averred by the respondents that the applicant has been correctly placed in the seniority list of Inspectors as per the rules/instructions on the subject.

4. The issue regarding treating the past service of employees rendered surplus in the new post where they have been redeployed

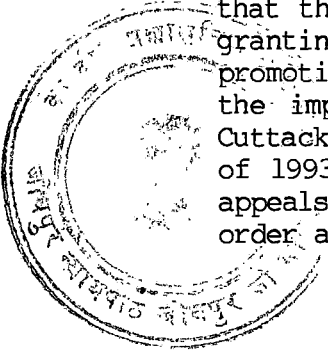
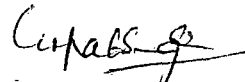
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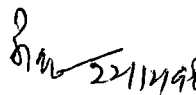
came under consideration before Hon'ble the Supreme Court in Civil Appeal Nos. 6201-06/1995, Union of India & Ors. vs. K. Savitri & Ors., reported in 1998 (2) Supreme 489. The brief facts in these appeals were that the respondents (K. Savitri & Ors.) were the employees of the Rehabilitation and Reclamation Organisation having joined the said Organisation in February, 1987. They became surplus in the parent organisation and thereafter under the provisions of the Rules were appointed in the All India Radio on different dates. In drawing up the seniority list of the employees in the All India Radio as their past services were not taken into account and their experience in the parent organisation was not taken as the requisite experience required for promotion in the All India Radio, they approached the Central Administrative Tribunal by filing different OAs. The Administrative Tribunal having allowed those OAs and having held that the past services rendered in the parent organisation would count for the purpose of seniority as well as experience the Union of India has come up in appeals. After thorough examination, Hon'ble the Supreme Court has dismissed those OAs and allowed the appeals with the following observations:-

"The Tribunal, therefore, was wholly in error in directing that the past services of the employees should be counted for granting them the benefit of seniority and experience for promotion in the All India Radio. In the aforesaid premises, the impugned orders of the Central Administrative Tribunal, Cuttack Bench, in Original Application Nos. 160, 161 and 163 of 1993 are set aside and those OAs are dismissed and these appeals are allowed but in the circumstances there will be no order as to costs."

5. In the present case, we do not find any strong ground to deviate ^{from} the law laid down by Hon'ble the Supreme Court in the aforesaid judgement. The present O.A., therefore, fails and is dismissed accordingly.

6. There will be no order as to costs.



(Gopal Singh)
Adm. Member


(A.K. Misra)
Judl. Member

cvr.

Recon cph
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Copy of water sent
to Counsel for PCL
by Reg. AD vick

K10 1

CLX 4-1-99

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Part II and III destroyed
in my presence on 12/4/96
under the supervision of
section officer as per
order dated 2/8/97

Section officer (Record)

AD-attached
12/2/99