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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 306 of 1992

Union of India Applicant

Versus

Badloo Prasad and others Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

As the pleadings are complete, the case is being disposed of finally.

2. This application has been filed against the judgement and order dated 6.1.1992 passed by the Prescribed Authority under the Payment of Wages Act, which was allowed and the applicant No. 1 was directed to pay a sum of Rs. 9,748.88 to the respondent No. 1 regarding the payment of difference of wages for the post of Carpenter for the period between 9.1.1976 to 14.3.1981 and was also directed to pay a sum of Rs. 19,497.76 as a compensation allowance i.e. total amount of Rs. 29,246.64, within a period of one month from the date of decision.

3. According to the respondent No. 1, in the year 1968, one Permanent post of Carpenter fell vacant on the retirement of One Nand Lal and the respondent No. 1 was promoted and appointed on the post of carpenter after trade test, and he continued to work on the post of Carpenter from 1968 to 1975 and the respondent No. 1 was reverted to his substantive post of Khalasi vide order dated 5.1.1976. Aggrieved by his reversion, he filed a suit for declaration and injunction in the court of Ist Additional Munsif, Faizabad, which was dismissed. Against the same, he preferred an appeal in the court of Ist Additional District Judge, Faizabad, which was allowed on 1.9.1979, and the court declared to the effect that his promotion as Carpenter in the grade of 110-180 was after trade test and

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due selection was not irregular and he was required to appear for trade test and due selection again and he will be deemed to have acquired a permanent status to the post of Carpenter and will be deemed to continue as such. It was further declared that the order of reversion was inoperative and illegal; this judgement and decree was passed on 1.9.1979. According to the Union of India, Judgement was fully complied with but that is the respondents who claimed for difference of wages of Khalasi and Carpenter for the period which he remained under reversion but as the same was not covered by the judgement, it was refused by the applicant.

4. The reply was given to the Union of India on 28.5.1989. It was thereafter he filed this application. On behalf of Sri Sidharth Verma learned counsel for the applicant contended that the application was barred by time and the respondents could not have claimed. The said amount of lapse of several years and the cause of action for the same arose before even the tribunal came into existence. The question of limitation has been considered by the prescribed Authority and the Prescribed Authority has rightly condoned the delay in as much as the matter was alive and the refusal was finally done in the year 1988 whereafter the respondent No. 1 approached the Prescribed Authority for redressal of grievance and accordingly the delay was rightly condoned and there are no good ground for interfering with the part of the order. It was then contended that the judgement was complied with and the dispute was only difference of the arrears of wages and the Union of India was within their right to say that

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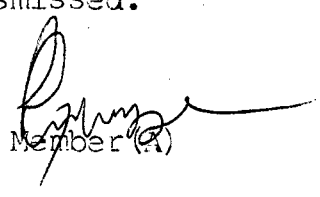
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of course, the matter is time barred or he is not entitled to the difference as he had not worked on the said post during these years. May it be. Where the legal right has already been granted in his favour, he was entitled for difference of wages, but as it can not be said that Union of India deliberately or there was any deliberate act from the part of the Union of India for which holding it the amount of compensation awarded apparently is out of tune and excessive and accordingly the amount of compensation is reduced to nine thousand and Seven Hundred and forty eight(9,748/-), and accordingly, this application is partly allowed, otherwise dismissed.


Member (A)


Vice-Chairman

Lucknow Dated: 19.11.1992.

(RKA)