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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI
NEW BOMBAY BENCH

Case No. TR. 375/87. 198
Date _____

DATE OF DECISION 2.7.1990.

Shri Baburao G. Salgar Petitioner

Shri H.B. Kulkarni, Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri V.G. Rege, Advocate for the Respondent(s)

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The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.

Hon'ble Shri P.S. Chaudhuri, Member (Admn).

The Hon'ble Mr.

- 1. Whether Reporters of local papers may be allowed to see the Judgement?
- 2. To be referred to the Reporter or not?
- 3. Whether their Lordships wish to see the fair copy of the Judgement?
- 4. Whether it needs to be circulated to other Benches of the Tribunal?

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CENTRAL ADMINISTRATIVE TRIBUNAL : NEW BOMBAY BENCH
NEW BOMBAY.

TR. 375/87.

Shri Baburao G. Salgar ... (Plaintiff)
versus Applicant.
Union of India and others... (Defendants)
Respondents.

P R E S E N T :

The Hon'ble Shri G. Sreedharan Nair, Vice Chairman.

The Hon'ble Shri P. S. Chaudhuri, Member (Admn).

For the plaintiff - Shri H. B. Kulkarni, Advocate

For the Defendants - Shri V. G. Rege, Advocate.

Date of hearing - 28.6.90

Date of Order - 2.7.90.

JUDGEMENT & ORDER :

G. Sreedharan Nair, Vice Chairman :

This relates to regular Civil Suit No. 1074 of 1983 in the Court of Civil Judge Senior Division, Solapur.

2. The plaintiff while working as ASM was selected for the post of Section Controller and his name was included in the panel in the year 1970. However, he was appointed to the post only in April, 1975. He prays for the monetary benefits of the post of Section Controller from 14.7.1970, the date of declaration of the selection.

3. It is alleged that one Shri N. B. Joshi junior to the plaintiff and who was not even empanelled was allowed to officiate in the post of Section Controller from 1970. According to the plaintiff, the adhoc officiating arrangement to his detriment was illegal.

4. In the written statement filed by the defendant ~~a~~ the preliminary objection raised is that the suit is barred by limitation as the cause of action had arisen in

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April, 1975. It is stated that pursuant to the selection and declaration of the results on 14.7.1970, eight (8) persons were empanelled and they were sent for training; but, in the meanwhile, the All-India Guards' Council filed Writ Petition No. 3603 of 1971 before the High Court of Andhra Pradesh ^{wherein} and a temporary injunction was allowed restraining the Administration from promoting the eight (8) empanelled candidates. The Writ Petition was dismissed on 16.9.1974. Thereafter, the plaintiff was promoted on 9.4.1975. As such, it is contended that the monetary benefits claimed by the plaintiff from 14.7.1970 cannot be allowed.

5. In respect of Shri N.P.Joshi, it is stated that he was working as Section Controller on local and adhoc basis from 1.10.1968.

6. In view of the fact that the request of the plaintiff was finally turned down on 25.5.1983, there is no merit in the plea of limitation raised by the defendant.

7. However, on the merits, the plaintiff's claim is not sustainable. No doubt, the empanelment of the plaintiff took place on 14.7.1970. Pursuant to the same, the plaintiff was sent for training. But he could not be appointed in view of the order of injunction in the High Court of Andhra Pradesh. The plaintiff was also impleaded as a respondent in the writ petition. After the dismissal of the writ petition, the plaintiff was first promoted on an adhoc basis and then the promotion was regularised. As such, the plaintiff cannot claim the monetary benefits attached to the post of Section Controller prior to the date on which he was duly promoted and appointed to that post. Mere empanelment does not confer

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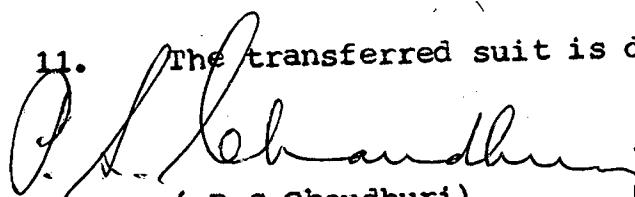
on him a right to the benefits attached to the post.

8. It was stated by the counsel of the plaintiff that since Shri N.B.Joshi, who was junior to the plaintiff and who was not even in the panel, had been allowed to officiate in the post of Section Controller during the intervening period, the plaintiff is entitled to the benefits of the post from 14.7.1970, the date of empanelment. We are unable to agree. Admittedly, the arrangement under which Shri Joshi was officiating in the post was on adhoc local arrangement in the exigency of service. It actually commenced even before the empanelment of the plaintiff. After the empanelment if the plaintiff had a grievance against the continuance of the said arrangement, it should have been agitated at that time. That grievance cannot be argued in the suit filed in the year 1983.

9. It has to be pointed out that the ~~prayer~~ of the plaintiff has been stepped up to that of Shri N.B.Joshi from 9.4.1975, the date on which the plaintiff was appointed to the post of Section Controller and arrears in that respect were also allowed by the order dated 19.12.1977.

10. It follows that the plaintiff is not entitled to the reliefs claimed.

11. The transferred suit is dismissed.


 (P.S. Chaudhuri)
 Member (Admn)


 G. Sreedharan Nair
 Vice Chairman.

S.P. Singh/

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