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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 620/89

198

~~XXXXXX~~

DATE OF DECISION 13.10.1989

Shri N.S.Trivedi

Petitioner

Shri M.A.Mahalle

Advocate for the Petitioner(s)

Versus

Union of India and others.

Respondents

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member (J)

The Hon'ble Mr. P.S.Chaudhuri, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

MGIPRRND-12 CAT/86-3-12-86-15,000

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA.NO. 620/89

Shri N.S.Trivedi  
C/o Shri M.A.Mahalle,  
Advocate, 8-A, Ameya Apt.,  
Near Kirti College,  
Prabhadevi, Bombay 400 028.

... Applicant

V/s.

1. Union of India through  
Secretary, Ministry of Finance,  
Department of Revenue, New Delhi.
2. Union Public Service Commission  
through Secretary, New Delhi.
3. Central Board of Direct Taxes  
through the Secretary, New Delhi. ... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar  
Hon'ble Member (A) Shri P.S.Chaudhuri

ORAL JUDGMENT

Dated: 13.10.1989

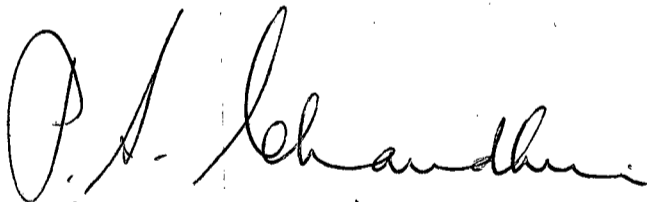
(PER: M.B.Mujumdar, Member (J))

Heard Mr. Mahalle for the applicant. The applicant was promoted as Income Tax Officer, Class I on adhoc basis on 30.11.1973. He was regularised on 30.5.1978. He was promoted as Deputy Commissioner of Income Tax on 26.12.1986 and he retired on 30.8.1989 while holding the same post. Before his retirement, he had submitted a representation dated 27.9.1988 claiming that the period during which he was officiating as Income Tax Officer Class I on adhoc basis, i.e. 30.11.1973 to 30.5.1978, should be taken into account for the purpose of his seniority. As no reply was received, he has filed this application on 28.5.1989 praying that his seniority should be refixed in the cadre of Class I w.e.f. 30.11.1973. He has prayed for granting promotion to the post of Assistant Commissioner of Income Tax by calling proforma D.P.C.

2. The applicant has relied on two judgments, viz. Dineshchandra Gupta v. Union of India and others T.A.A. 153/1986 and S.L.Sabarwal v. Union of India O.A.No. 437/1987. The applicant has attached copies of both the judgments. The former is the judgment of the Jabalpur Bench while the later judgment is of the Jodhpur Bench of this Tribunal.

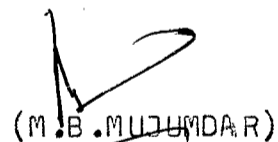
3. In view of the conflicting views taken by the different Benches of this Tribunal, the question was referred to a Full Bench of this Tribunal and the Full Bench presided over by Justice Amitav Banerji, the Hon'ble Chairman of this Tribunal, in its judgment dated 18.9.1989 in OA No. 817/87 and allied cases has over ruled both the judgments and held that the judgment of the Calcutta Bench in Naresh Chandra Dutta v. Union of India, ATR 1988 (2) CAT 10, in which a contrary view is taken lays down the correct position of the law. That ~~case~~ <sup>judgment</sup> is against the applicant.

4. In view of the above position, the applicant has no case and hence we reject the application summarily.



(P.S. CHAUDHURI)

MEMBER (A)



(M.B. MUJUMDAR)

MEMBER (J)