

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP AT NAGPUR

O.A. NO: 548/89

199

T.A. NO:

DATE OF DECISION 14.11.1991

Namdeo Rao

Petitioner

Mr. N.A.Deshmukh

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

--- Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Mr. M.Y. Priolkar, Member (A)

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 ?

mbm\*

( U.C.Srivastava )  
V/C

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY  
CAMP AT NAGPUR

\* \* \* \* \*

Original Application No.548/89

Namdeo Rao S/o Shri Nusatee Rao,  
R/o. Qr. No.472,  
Rani Durgawati Nagar,  
Binaki Lay Out, Nagpur - 17.

... Applicant

V/s

1. Union of India, through  
Secretary, Ministry of Finance,  
(Department of Revenue),  
New Delhi.

2. Chairman, Central Board of  
Direct Taxes, North Block,  
New Delhi 110 001.

3. Chief Commissioner of Income Tax,  
12, Sadhu Vaswani Road,  
Pune 411 001.

4. Commissioner of Income Tax,  
Vidarbha, Nagpur,  
Ayakar Bhavan, Telankhedig Road,  
Nagpur 440 001.

... Respondents

OORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava  
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. N.A.Deshmukh, Advocate  
for the applicant.

None present for the  
respondents.

ORAL JUDGEMENT:

Dated : 14.11.1991


(Per. U.C.Srivastava, Vice-Chairman)


The applicant ~~who~~ rose from the post of Peon to the post of Head Clerk in the office of Commissioner of Income Tax, Vidharba and Nagpur, Nagpur. The seniority of the applicant was fixed on 1.4.1970 and on that basis he was promoted as Head Clerk with effect from 8.1.1974 but he was reverted as Upper Division Clerk from the post of Head Clerk from 8.12.1974 on the ground that the other senior candidate belonging to Scheduled Tribe like him was not considered for promotion as Head Clerk. The applicant was then promoted as Head Clerk from 17.10.1977 and to the post of Supervisor Grade II from 1.11.1980. The applicant feeling aggrieved

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on his reversion order made a representation to the Commissioner of Income Tax but his representation was rejected. Thereafter he made a representation to the Central Board of Direct Taxes and it appears that the representation filed by the applicant found favour with the Central Board of Direct Taxes and it passed an order to the effect that the applicant was deemed to have been promoted <sup>to officiate</sup> as Head Clerk with effect from 8.1.1974 in the pay scale of Rs.425-700 and that his pay shall be fixed with effect from 11.2.1974 only, i.e. from the date of taking over as Head Clerk but no arrears of pay and allowances for the period from 8.12.1974 to 31.5.1977 shall be admissible. Further that he was deemed to have been promoted to officiate as Supervisor Grade II with effect from 1.6.1977 but no arrears of pay and allowances shall be admissible to him. By the said order he was also promoted to officiate as Supervisor Grade I in the pay scale of Rs.700-900 with the rider that he shall be deemed to have been promoted to officiate as Supervisor Grade-I with effect from 6.6.1981. The pay shall be fixed w.e.f. 6.6.1981 but no arrears of pay and allowances for the period from 6.6.1981 till the date of his taking over as Supervisor Grade-I shall be admissible as provided in Government of India's decision No.11 below F.R.27. It is not known under what circumstances this order was passed. The respondents have opposed the application and stated that the applicant is not entitled to any such relief although they admit that of course it is under the orders of Central Board of Direct Taxes that he was promoted with effect from a particular date. On behalf of the applicant it was contended that the department has made a mistake and the mistake was rectified in this matter there was no reason to deprive the applicant from his monetary benefit. In case the mistake would not have been committed the

applicant would have got this benefit during all these years. That may be so but the applicant did not work on this scale during these years may be because of some mistake or some mistake on the part of the department. It may be that by way of concession also the benefit may be extended to the applicant, but it was not proper for the department to deprive the applicant from the entire benefit during all these period when the plea made by the applicant always prevailed over them. Accordingly we direct that the respondents shall <sup>also</sup> pay to the applicant pay and arrears in the grade of Supervisor Grade-I for three years prior to the date of taking over charge as Supervisor Grade-I. ~~upto the date of filing this application.~~ The amount shall be paid to the applicant within a period of three months from the date of communication of this order. The application stands finally disposed of in this manner. No order as to costs.

  
( M.Y. Priolkar )  
Member (A)

  
( U.C. Srivastava )  
Vice-Chairman

v/-