

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 13TH DAY OF JANUARY, 1987

Present : Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
Hon'ble Shri L.H.A. Rege, Member (Admn)

APPLICATION NOS. 286, 287 and 1755/86

T.P. Vysamudri,
S/o P.T. Vysamudri
Tax Assistant,
Income Tax Office,
DHARWAR

.... Applicant
in A.286/86

R.A. Chillal,
S/o A.R. Chillal,
Tax Assistant,
Income Tax Office,
DHARWAR

.... Applicant
In A. 287/86

M.S. Rajaram Urala,
S/o M.S. Urala,
Head Clerk,
O/o the Chief Commissioner (Admn.)
And Commissioner of Income+Tax
Karnataka - I,
BANGALORE - 560 001.

.... Applicant
in A. 1755/86

(Shri S. Vasanth Kumar, Advocate)

v.,

1. The Commissioner of Income Tax
in Karnataka,
Central Revenue Building,
Queens Road, BANGALORE-1.

.... Respondent
common

2. The Chairman,
Central Board of Direct Taxes
New Delhi.

.... Respondent-2
in A. No.1755/86

3. N. Suryanarayana,
Income Tax Inspector,
Income Tax Office,
Hubli.

Respondents
2 to 26. in
A. No.286-287/86.

4. R.P. Maladkar,
Stenographer (Sel. Gr).
Office of the Appellate,
Asst. Commissioner of Income Tax,
Panaji, GOA.

2. Application Nos. 286 and 287/86 are transferred applications received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act of 1985 (Act). Application No.1755/86 is a fresh application made under section 19 of the Act before this Tribunal.

3. Sriyuths T.P. Vyasamudri, R.A. Chillal and M.S. Rajaram Urala, applicants in A.No. 286, 287 and 1755 of 1986 respectively inter alia possessing the qualifications of stenography initially joined service in the Income Tax Department of Government of India as Lower Division Clerks (L.D.C's) on 10.2.64, 13.8.64 and 6.2.64 respectively, and therefore all of them were also allowed to draw a special pay of Rs.20.00 per month for working as stenographers or doing stenographic work. In the cadre of LDCs, they were confirmed on 2.12.67, 28.9.68 and 4.6.67 respectively.

4. On 11/13.3.1968, 11.5.1969 and 22.5.1968 respectively the applicants were promoted as Upper Division Clerks (UDCs) from which dates they have been working in that capacity in one or the other office, foregoing the benefit of special pay of Rs.20.00 earlier drawn by them as LDCs. On this basis, they have been confirmed in the cadre of UDCs from 23.5.1972, 7.8.1973 and 23.5.1972 respectively. On the basis of these confirmations and their seniority and other relevant factors, on different dates they have been promoted as Tax Assistants and then as Head Clerks.

5. Sometime in August or September, 1969, Government of India, took a policy decision to convert the posts of LDCs performing the duties of stenographers in receipt of special pay of Rs.20.00 into the posts of stenographers (Ordinary Grade) (SOG). That decision, which has given raise to these proceedings communicated by the Central Board of Direct Taxes (CBDT) to the Commissioners, reads thus:-

" (6) All the existing posts of LDCs and UDCs with a special pay of Rs.20.00 or Rs.30.00 for stenographic work will be converted into posts of Stenographer (a) in the scale of Rs.130-5-160-8-200-EB-8-256-EB-8-280 to be called grade III of the CSSS in the Ministries/Offices participating in CSSS and in other Ministries/Departments of the Government of India, and (b) in the scale of Rs.130-5-160-8-200-EB-8-256-EB-8-280-10-300 (the same as is applicable to UDCs) in the Subordinate offices and other offices of the Government of India.

2. Accordingly, the sanction of the President to the conversion of all the existing sanctioned permanent and temporary posts in the grade of LDCs with special pay of Rs.20.00 p.m. (Stenotypists) in your charge/Directorate respectively of Stenographers (OG) in the scale of Rs.130-5-160-8-200-EB-8-256-EB-8-280-10-300 with effect from the 1st August, 1969".

On the basis of this order the applicants, claim that they should be treated as Stenographers (OG) equivalent to UDC with effect from 1.8.1969 and their further conditions of service in that cadre initially and in other higher cadres thereafter should be regularised by granting appropriate declarations thereto.

6. The applicants have asserted that they were entitled for the benefit of the order of Government

26. In the light of our above discussions, we hold that these applications are liable to be dismissed. We, therefore, dismiss these applications. But in the circumstances of the cases, we direct the parties to bear their own costs.

Re. Pukhailam
Vice-Chairman 13/1/1987

Ch. H. 13/1/1987
Member (AM)

SR/np/Mrv.

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5. Sometime in August or September, 1969, Government of India, took a policy decision to convert the posts of LDCs performing the duties of stenographers in receipt of special pay of Rs.20.00 into the posts of stenographers (Ordinary Grade) (OG). That decision, which has given raise to these proceedings communicated by the Central Board of Direct Taxes (CBDT) to the Commissioners, reads thus:-

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On the basis of this order the applicants, claim that they should be treated as Stenographers (OG) equivalent to UDC with effect from 1.8.1969 and their further conditions of service in that cadre initially and in other higher cadres thereafter should be regularised by granting appropriate declarations thereto.

6. The applicants have asserted that they were entitled for the benefit of the order of Government

10. Sriyuths M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for respondent 1 in A. Nos. 286 and 287/86 and respondents in 1755/86 and Shri P.S. Manjunath, learned counsel for respondents 2,3,4,7,8,11,12,16,17,19,20,21,23,24, 25 in A. No. 286 & 287/86 contend that the effective orders made by the Commissioner confirming the applicants in the cadre of UDCs in 1972 and 1973 had not been challenged by them and if those effective orders hold the field, then there was contumacious laches and acquiescence which justify this Tribunal to decline to grant the relief sought by the applicants without examining the merits. In support of their contention, learned counsel for the respondents strongly rely on the ruling of the Supreme Court in AIR 1986 SC 636 NARENDRA CHADDHA V., UNION OF INDIA.

11. We have earlier noticed the material service particulars of the applicants.

12. In the case of the applicant in A. No. 286/86 the Commissioner on 27.12.72 made an order confirming him from 27.5.72 in the cadre of UDC and that order on which strong reliance is placed by the respondents reads thus :-

20. We will assume that the applicants would have legitimately approached the Commissioner or the other higher authorities for redressal of their grievances in 1979 and examine the question of delay on that basis also.

21. We have earlier noticed that the orders were made by the Commissioner in the years 1972 and 1973. When the orders made in those years are taken into consideration, then also the applicants had slept over the matter atleast for a period of six years or even more, for which they have not given any satisfactory explanation at all. We find no reason also to hold that there was any justification for the applicants to wait for very nearly six years or more and then only assert their rights either before the Commissioner or before the Chairman, CBOU as the case may be. On this view also, the applicants claim for ignoring those delays cannot be acceded to by us.

22. We have earlier noticed that Writ Petition Nos. 9055 and 9056 of 1980 were presented before the High Court on 3.7.1980. In their applications before the High Court or even thereafter the applicants have not sought for invalidating the orders made against them. Even otherwise, in seeking for their declaration, the applicants have approached the High Court nearly after 7 years. While the applicants in A.Nos. 286 and 287/ have delayed for 7 years, the applicant in A.No. 1755/86 has approached this Tribunal only on 17.10.1986 i.e., very nearly after 14 years.

23. We are firmly of the view that the delay on the part of the applicants in approaching the High Court or the Tribunal as is the case which has not also been properly explained by them, cannot on principle or authority be ignored. If we are to ignore the long delays and examine the claims of the applicants on merits and accept them, then we will necessarily have to upset the long course of events and the developments that have taken place in the department particularly in the various cadres from 1.8.1969. Any such attempt by this Tribunal at this distance of time, as ruled out by the Supreme Court in Narendra Chaddha's case, is not at all justified.

24. The applicants who received the orders of confirmations made in 1972 and 1973 have accepted them and in any event have acquiesced in them. On the basis of those orders the applicants have accepted two more promotions and have derived benefits. This conduct of the applicants also disentitles them to challenge them and seek for the declarations they have sought.

25. On the foregoing, we hold the objections of the respondents that these are fit cases in which we should decline to examine merits on grounds of delay laches and acquiescence are well founded. We therefore, decline to examine the merits.

A handwritten signature or mark, appearing to be a stylized 'A' or a similar character, is written in black ink at the bottom left of the page.

26. In the light of our above discussions, we hold that these applications are liable to be dismissed. We, therefore, dismiss these applications. But in the circumstances of the cases, we direct the parties to bear their own costs.

Re. Pukhraj
Vice-Chairman

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Khushwant Singh
Member (A)

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Stenographer (Sr. Gr),
Office of the Inspecting Assistant
Commissioner of Income tax,
DHARWAR.

25. S.K. Ekanath,
Stenographer (SR. Gr),
Office of the Inspecting Assistant
Commissioner of Income tax,
BELGAUM.

26. U.A. Jamadar,
Stenographer (Sr. Gr),
Office of the Inspecting Assistant
Commissioner of Income tax,
PANAJI.

27. B. Sanjeeva Shetty,
Stenographer (Sr. Gr),
Office of the Commissioner of Income tax,
BANGALORE - 1.

..... Respondents
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86

(Shri M.S. Padmarajaiah, Central Govt. Standing Counsel)

(Shri P.S. Manjunath for R 2,3,4,11,17,20,23 to 25
in Application No. 286-287/86)

This application having come up for hearing
today, and after hearing both sides, Hon'ble Shri
Justice K.S. Puttaswamy, Vice-Chairman, made the
following :

O R D E R

As the questions that arise for determination
in these cases are common, we propose to dispose
of them by a common order.