

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

②

O.A. NO: 556/92

199

T.A. NO: -----

DATE OF DECISION 28.8.1992

Gopal Marutirao Sudrik

Petitioner

Mr. S.P. Kulkarni

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

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Advocate for the Respondent(s)


CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

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 ?

ND


(S.K. DHAON)
VC

AD

mbm*

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.556/92

Gopal Marutirao Sudrik
and 2 ors.,
C/o.S.P.Kulkarni,
Advocate,
'Gunjan', Wadayli Section,
Ambarnath(East),
Dist. Thane - 421 501. .. Applicants

-versus-

Union of India and Ors. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

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

Appearances:

1. Mr.S.P.Kulkarni
Advocate for the
Applicant.
2. None for the respon-
dents.

ORAL JUDGMENT: Date:28-8-1992
(Per S.K.Dhaon, Vice-Chairman)


One Mr.Hilary D'Souza was given a certain ranking in the seniority published in the year 1975. Thereafter he was promoted as Head Clerk in the same year. He was later on reverted. In 1982 he was reappointed as Head Clerk. The applicant and one Shri Vithal Srinivas Bedadur and some others felt aggrieved by the promotion of D'Souza in the year 1982. Shri Bedadur instituted a suit No.2588/1981 in the Court of City Civil Court at Bombay which was transferred to this Tribunal and registered as Tr.Application No.33/88. The said application was disposed of finally by this Tribunal on 10th September,1991. It dismissed the suit as it came to the conclusion that the same has been filed beyond the period of limitation as prescribed. That order has become final. In this application the promotion of


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D'Souza as Head Clerk made in the year 1982 is being challenged. On merits, the case is that D'Souza had been irregularly appointed to the original post and therefore he could not be promoted as Head Clerk. In order to explain the delay the learned counsel has pointed out that, since Bedadur was prosecuting ^{the} ~~his~~ suit wherein he was challenging the appointment of D'Souza as Head Clerk, the ^{it} applicant did not consider worthwhile to initiate any independent set of proceedings for achieving the same purpose. If this was the correct situation, Bedadur had instituted the suit in a representative capacity. The ^{the} suit having been dismissed and order of dismissal have become final, the applicant cannot now be permitted to reagitate the ~~same matter by~~ initiating the fresh proceedings under Section 19 of the Administrative Tribunals Act.

✓ 2. Independent of ~~this~~ suit, the position is clear that, in fact and in substance, the applicant is challenging the appointment of D'Souza as a Head Clerk in the year 1982. Ten years after, the applicant has chosen to file the present application. No explanation is forthcoming to explain the inordinate delay. We are, therefore, not in a position to condone the delay.

✓ 3. The application is ~~dismissed~~ dismissed as barred by limitation.


(M.Y. PRIOLKAR)
Member(A)


(S.K. DHARON)
Vice-Chairman