

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: ⁽¹³⁾AT

HYDERABAD

TRANSFERRED/ORIGINAL APPLICATION NO. 810 of 1987.

DATE OF ORDER: 23.3.90

BETWEEN:

K.R.Prabhudas Padma Rao

.. APPLICANT(S)

A N D

The Commissioner of Income-tax,
Andhra Pradesh-I,
Hyderabad

RESPONDENT(S)

FOR APPLICANT(S): Shri B.Nalini Kumar, Advocate
for Shri K.G.Kannabiram, Advocate.
FOR RESPONDENT(S): Shri E.Madan Mohan Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl).
Hon'ble Shri R.Balasubramanian : Member(Admn).

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Bench^{es} of the Tribunal?
5. Remarks of Vice-Chairman on columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

HJNM
M(J)

HRBS
M(A)

(64)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No.810 of 1987.

Date of Judgment: 23.3.90.

K.R.Prabhudas Padma Rao .. Applicant

Versus

The Commissioner of
Income-tax,
Andhra Pradesh-I,
Hyderabad

.. Respondent

Counsel for the Applicant : Shri B.Nalini Kumar,
Advocate
for Shri K.G.Kannabiram,
Advocate.

Counsel for the Respondents : Shri E.Madan Mohan Rao,
Addl. CGSC.

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl).

Hon'ble Shri R.Balasubramanian : Member(Admn).

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This is an application under section 19 of the
Administrative Tribunals Act filed by Shri K.R.Prabhudas-
Padma Rao against the Commissioner of Income-tax,
Andhra Pradesh-I, Hyderabad.

2. The applicant was appointed as L.D.C. on
25.10.1957, promoted as U.D.C. in January, 1964
~~January, 1964~~ and confirmed as U.D.C. by an order
dated 12.6.1974 of the respondent department.

His seniority as shown in the seniority list prepared
by the Commissioner of Income-tax as on 1.9.1976
was at S.No.135. The applicant submits that

65

in disregard of his seniority the respondent had promoted several juniors as Head Clerks by various proceedings and orders. It is the case of the applicant that the respondent had relied on instructions laid down in para 5(1) of the annexure to the Ministry of Home Affairs Circular O.M.No.9/11/55-RPs dated 22.12.1956 communicated in Board's letter F.No.11/5/64/Ad.VII dated 1.7.1964 which are not applicable to him. The applicant feels aggrieved that as a result of this application of the circular he had been made junior to 26 persons who should otherwise be junior to him. The applicant represented on 15.12.77, 27.12.77, 27.1.78, 11.5.78 and 7.7.78. He also submitted a representation dated 10.10.1979 to the Central Board of Direct Taxes and received a reply dated 28.8.1980 from the Commissioner of Income-tax saying that his seniority was fixed as per rules and the representation dated 10.10.1979 addressed to the Board is lodged in the office of the respondent. The applicant continued to represent on 25.7.81, 19.9.83 and 23.8.85. As a result of loss in seniority due to the wrong application of the Board's memo the applicant had been denied promotion to the grade of Income-tax Inspector. The applicant now seeks a declaration ^{that} with the revised seniority list of UDCs issued by the respondent ^{was} as illegal and for a direction to the respondent to draw up a fresh seniority list restoring the seniority to the original position as was reflected in the seniority list as on 1.9.1976 only for the grant of relief prospectively

L.S.

2/8/80

to the applicant and issue of orders promoting the applicant to the post of Head Clerk and also direct the respondent to consider him for promotion as Income-tax Inspector.

3.. There is no counter affidavit from the respondent.

4. The case was heard on 15.3.1990. The main contention of the applicant was that his seniority arrived at on the basis of length of service should not have been disturbed in the light of the Board's memo. The learned counsel for the respondent opposed the application mainly from the maintainability and limitation point. We find from an office note prepared at the time of admission of the application itself that the case was hopelessly time-barred. No doubt the applicant had been representing very regularly. But he did not seek legal redressal within a reasonable time. The cause of action was the reply dated 28.8.1980 (page 20 of material papers) by which his representation was rejected. Even after this without seeking legal redressal, the applicant had been continuing to represent and he received yet another reply on 16.12.1985 from the Commissioner of Income-tax stating that the applicant was "once again" informed that there is no case (material paper 4 to the application). It is clear from the case that what the applicant wants now is a restoration of his position in the seniority list obtaining in 1976. ^{This} ~~There~~ is an order made

2.5

(67)

much before 3 years immediately preceding the setting up of this Tribunal and cannot therefore be entertained. The judgment of Calcutta Bench in a similar case clearly lays down that an order made ^{any} ~~in~~ time before the period of 3 years immediately preceding the date on which the Tribunal was set up cannot be challenged before this Tribunal which has no power to condone the delay [1987(3) ATC 427]. We therefore hold that this Tribunal has no jurisdiction to adjudicate in this case and accordingly dismiss the petition. There is no order as to costs.

M S'

(J.Narasimha Murthy)
Member(Judl)

R. Balasubramanian

(R.Balasubramanian)
Member(Admn)

Dated 23-3-1990

[Signature]
DEPUTY REGISTRAR(J)

W.A.C. 24/3/90

TO:

1. The Commissioner of Income Tax, Andhra Pradesh-I, Aayakar Bhavan, Basheerbagh, Hyderabad.
 2. One copy to Mr.K.B.Kannabiran, Advocate, 10-3-29/2, East Marredpally, Sec'bad.
 3. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC, CAT, Hyd.
 4. One ~~extra~~ copy, to Hon'ble Mr.R.Balasubramanian, Member:(A), CAT., Hyderabad.
 5. One spare copy.
- kj.