

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : : GUWAHATI - 5

O.A. No. 57 of 1994
T.A. No.

DATE OF DECISION 19.1.1995

Shri Annayok James Tayeng

PETITIONER(S)

S/Shri J.L.Sarkar, M.Chanda, A.Roshid,
T.N.Srinivasan.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Others

RESPONDENT(S)

Shri S Ali, Sr. C.G.S.C. for respon-
dents No. a and Shri N.P.C. Sing for
respondent nos. b and c.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE **SHRI M.G.CHAUDHARI, VICE-CHAIRMAN.**

THE HON'BLE **SHRI G.L.SANGLYINE, MEMBER (ADMINISTRATIVE).**

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 the Judgement is to be circulated to
the other Benches?

No

M.G. Chaudhari

Judgement delivered by Hon'ble ~~Justice~~ Vice-Chairman.

A

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 67 of 1994.

Date of decision : This the 19th day of January, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri Annayok James Tayeng,
Sanjenthong Officers' Colony,
Imphal,
Manipur

..... Applicant

By Advocates S/Shri J L Sarkar, M Chanda.

-versus-

- a. Union of India,
(through the Secretary,
Govt. of India,
Deptt. of Personnel and Training,
New Delhi.
- b. State of Manipur
represented by the Chief Secretary,
Govt. of Manipur
- c. Shri H Jelshyam,
I.A.S.
Principal Secretary,
Govt. of Manipur,
Imphal

..... Respondents

By Advocates S/Shri S. Ali, Sr. C.G.S.C. for respondent
No. a, N.P.C. Singh for respondents no. b and c.

ORDER

CHAUDHARI J. V.C.

The applicant is presently working as Director
General of State Academy of Training under Administrative
Reforms Department, Govt. of Manipur and is ex-officio

heta

Commissioner of Forests. He has filed this application on 28.3.94 for the following reliefs :

The applicant be given his due promotion to the grade above super-time scale of Rs. 7300-7600 p.m. in the cadre of Indian Administrative Service (IAS) from the date the said promotion to the scale was due i.e. from 1988 onwards with full service benefits such as seniority, back-wages, arrear of salary and further promotion thereafter".

He has also prayed for quashing the order dated 9.7.90 passed by the Govt. of Manipur promoting the respondent No. 3 to the scale above super-time scale.'

2. The Union of India as well as the State of Manipur have filed written statements opposing the reliefs. The 3rd respondent who is private respondent and ^{whose} ~~his~~ promotion order dated 9.7.90 is being challenged has also filed a written statement opposing the application.

3. The learned counsel for the State of Manipur Mr. N. P.C. Singh raised a preliminary objection which is also taken in the written statement that the application is barred by limitation and is not therefore maintainable.

Mr. Sarkar, the learned counsel for the applicant however submitted that the application was filed within limitation. Submissions of Mr. Sarkar, Mr. N.P.C. Singh and Mr. Ali, Sr. C.G.S.C. appearing for the Union of India have been heard.

4. We have given our anxious consideration to the question of limitation bearing in mind that as far as possible the applicant should not be deprived of any



legitimate relief for removing his greivancès, if the application could be shown to have been filed within the period of limitation. We do not propose to deal with all the submissions made by the respective counsel extensively in view of what has transpired today. Suffice it to say we find it difficult to hold that the application is not barred by limitation. After we made this view of ours known to the counsels and to the applicant who is also present, Mr. Sarkar on obtaining instructions from the applicant (who is present in court) submits that the right of the applicant to get the scale above super-time scale should be left open to be reconsidered by the Government in the event of the applicant being acquitted in the Criminal Case pending before the Special Judge, Guwahati and since the pendency of that case ~~is being~~ ^{has been} the only ground for the Government to have declined to grant him scale of above super-time scale, ^{so far} though otherwise he has not been found ineligible for the ^{same} ~~post~~. In order that the question may be left open for consideration by the Government in the eventuality mentioned above, Mr. Sarkar submits that the applicant desires to seek leave of the Court to withdraw this application so as to enable him to move the Government to reconsider the question at appropriate stage with reference to whatever date in the past may be found relevant for such consideration including the year 1990 and submits that it may be clarified by us that the fact that the present application had been filed and was likely to be rejected on the ground of limitation should not preclude such consideration of the case by the Government in future.

[Handwritten signature]

5. It must be stated that Mr. Singh, the learned counsel for the State of Manipur and the learned ~~Adl.~~ Sr. C.G.S.C. Mr. Ali fairly stated that they would submit to the orders of the Court while maintaining that it should not be understood that they have conceded to the point of limitation or as regards maintainability of this application.

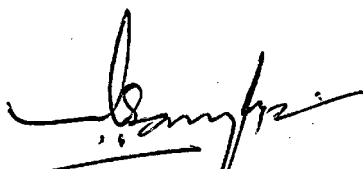
6. The applicant was asked to think over what he has instructed his counsel to state and then inform us his final decision. We allowed sometime to him in between in order to enable him to think over the matter. The applicant stated before us that the request made by his counsel Mr. Sarkar may be accepted and he has given instructions to him to do so after fully realising the impact thereof and the consequences.


7. In the result we allow the applicant to withdraw this application without prejudice to his right to move the Government to reconsider the question of granting him ^{scale} the above super-time scale from whatever date he may be found eligible in the event of the applicant being discharged or acquitted from the Criminal Case now pending against him ^{when} and the ground on which the Govt. has not been inclined to consider giving ^{so far} that relief to the applicant would stand removed. We make it clear that the fact that the applicant has approached this Court by way of this application and that we are not inclined to entertain the same on the ground of limitation shall not be a bar in the way of the Government to re-examine the question even relating to the period earlier to the date of filing

hull

of the application and as may be relevant for consideration of the matter. It is needless to add that if and when occasion would arise for reconsideration of the matter by the Government, the Government will be free to decide the question taking into account all the circumstances and angles of the matter and take a suitable decision as they may be advised.

8. With the aforesaid observations the application stands disposed of as withdrawn. No order as to costs. Copy of the order be supplied to the counsels.


(G.L.SANGLYINE)
Member(A)


(M.G.CHAUDHARI)
Vice-Chairman

trd