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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8295/2016

P. GANESHAN

..... Petitioner

Through: Dr. P.S. Nerwal, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Arun Bhardwaj, CGSC with
Mr. Mimansak Bhardwaj, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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23.11.2016

1. The petitioner in this writ petition has impugned the order dated 7th April, 2016 passed by the Principal Bench of the Central Administrative Tribunal whereby his O.A. No.2689/2012 has been dismissed. The petitioner has also challenged the order dated 31st May, 2016 by which his review application has been dismissed.
2. The petitioner, an officer in the Karnataka Administrative Service was promoted to Indian Administrative Services on 31st May, 1994. In the same batch, one D.N. Nayak, who was senior to the petitioner in the Karnataka Administrative Service, was also promoted on 4th June, 1994 to the Indian Administrative Service. In the Indian Administrative Service, the said D.N. Nayak in terms of seniority was ranked junior to the petitioner.
3. The petitioner retired from the service on 30th June, 2011.
4. After his retirement, he filed the aforesaid O.A. No.2689/2012

seeking stepping up of pay upon promotion to the Indian Administrative Service with reference to the pay of D.N. Nayak.

5. In our opinion, the Tribunal has rightly dismissed the said O.A. on the ground of limitation. The delay from appointment to the Indian Administrative Service in 1994 till 2012, when the OA was filed, is apparent.

6. Even on merits, the Tribunal has rightly observed and held that the pay of the petitioner has to be fixed in terms of the Indian Administrative Service (Pay) Rules, 1954. The petitioner was appointed to the Karnataka Administrative Service on 7th January, 1980 and D.N. Nayak was appointed to the said service four years earlier, that is, on 19th July, 1976. Thus, D.N. Nayak, who was senior to the petitioner in Karnataka Administrative Service had earned increments, etc. Even if D.N. Nayak was junior to the petitioner in Indian Administrative Service, his salary, fixed in accordance with the Indian Administrative Service (Pay) Rules, 1954, was higher. It is accepted and an admitted case that the said pay of the petitioner had been correctly fixed as per the said rules.

7. By order dated 31st May, 1997, office of the Accountant General, Karnataka, Bangalore had examined the question of fixation of salary of the petitioner under the Indian Administrative Service (Pay) Rules, 1954 and had re-fixed the same under clause (ii) of Section (1) of Schedule II at Rs.4,200/- per month. Earlier it had been fixed at Rs.4,325/-. The reason for re-fixation was that the petitioner had been paid higher dearness allowance while serving in the Karnataka Administrative Service, than what was admissible. This

was an exercise of correction. This order dated 31st May, 1997 was not challenged by the petitioner by filing O.A. before the Tribunal or in any proceeding, till 2012.

8. In the writ petition, several new grounds and issues have been raised including challenge to the validity of the Indian Administrative Service (Pay) Rules, 1954 on the ground that the said rules are repugnant and in conflict with the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 which were amended in the year 1997. It is submitted that the amendment was to ensure that meritorious officers get promoted earlier. The petitioner in the OA had not challenged validity or legality of the Indian Administrative Service (Pay) Rules, 1954 or that they should be struck down. In the given circumstances, we do not think we are required to go into the said aspects or issues as this is not the court of the first instance.

9. In view of the aforesaid, we do not find any merit in the present writ petition and the same is dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

NOVEMBER 23, 2016
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