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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7477/2015 and C.M. No.32633/2015

TUSHAR RANJAN MOHANTY Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. R.V. Sinha, Mr. A.S. Singh &
Mr. Amit Sinha, Advocates for
respondent No.1/ UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

19.02.2019

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1. After detailed submissions, Mr. Mohanty – the petitioner who appears in person, submits that he does not press his claim made in the Original Application Nos.2723/2012 and 3782/2012, except insofar as the observations made by the Tribunal in the last two paragraphs of the impugned order are concerned.

2. In this regard, Mr. Mohanty submits that he genuinely believed that he had a claim premised on the fact that his promotion orders were made effective from the date his immediate junior was promoted, which was 02.11.2006, and on the basis that the seniors had actually not joined the promotional post as on 02.11.2006. They had joined the promotional post at later dates.

3. Having perused the impugned order and heard Mr. Mohanty as well as Mr. Sinha, we are of the view that the impugned order on the merits of the dispute does not call for interference and Mr. Mohanty also accepts that position.

4. The Tribunal in the last two paragraphs of the impugned order has observed as follows:

“We are constrained to note that as the Tribunal provides a Forum for inexpensive litigation the same is taken by some as a forum to file vexatious cases too. The efficiency of the applicant both in his dexterity and eloquence, though manifest, these could help him only when the case has merits. Here is a case where the applicant claims seniority over persons who are four years senior to him and there is nothing to support his case whereby the rank seniors could be brought down below him. In the same breath, we also note that as regards his main work, as noted earlier, while submitting factual statistical sheet, he has made more than two dozen mistakes in both these sheets if taken together which is not at all expected from such a senior officer of the ISS, which creates a shadow of doubt whether such mistakes which if taken on their face value would be favourable to the applicant, have been permitted to creep in more out of design than out of inadvertence. Again, such an act is not expected in the case of the applicant, in whose case, there does remain the scope, considering his present age, of his rising in the ladder of promotion to the post of Chief Statistician of the Country. The Tribunal is required to go through 1000 of pages or the bulky records in these litigations and hear oral submissions spaced over tens of hours of hours. As said Lord Denning in Jones v. National Coal Board (1957) 2 QB 55 – let the advocates one after the other put the weights into the scales – the ‘nicely calculated less or more’ – but the judge at the end decides which way the balance tilts, be it ever so slightly. (cited in Charan Lal Sahu v. Union of India, (1990) 1 SCC 613). In addition, time is spent in writing orders thereon

for which there can be no hesitation but where issues which have already been decided and set at rest are raked up again masquerading the case as if it is not earlier decided, by putting in a new script, spending the valuable time of the Court could be only at the expenses of a more deserving case, requiring judicial balm and where, the counsel or applicant lacks either in articulation or skill as that of the applicant.

We now take the relief that could be provided to the applicant. In consideration of the facts stated above, we are of the opinion that the applicant has sought his regularization from 05.01.2006, the date of his ad hoc promotion which has already been considered in OA No.1381/2007 and has been rightly denied to him. Moreover, he has sought seniority over officers who are as many as four years senior to him without there being any real basis. Hence, we have no option but to dismiss both these Original Applications. Though the Tribunal is fully convinced that the dismissal of the OAs should be with deterrent cost against the applicant, the sober submission at the time of argument by the applicant in person, dissuades us from levying, otherwise a well deserved cost against the applicant and thus, the parties are to bear their own costs.”

5. The Tribunal itself has recognised the position that an applicant is entitled to invoke the jurisdiction of the Tribunal as a forum for inexpensive litigation. The petitioner may have entertained the belief that he had an arguable claim (which actually he did not), and on that premise, he persuaded his Original Application. The same, in our view, did not call for drawing any conclusions against the petitioner of his preferring a vexatious claim, or doubting his intention because some mistakes had crept into his pleadings before the Tribunal. After all, the Tribunal would give an opportunity to the opposite party to meet the averments made by a party in its pleadings and inaccurate pleadings would not carry the party making them, very far. Unless there is good reason to assume *mala fide* on the part

of an applicant – in the making of his pleadings, in our view, the applicant should be given the benefit of doubt.

6. We, therefore, expunge the adverse remarks made by the Tribunal in the last two paragraphs of the impugned order dated 23.09.2014 against the petitioner, while maintaining the said order in its entirety on the merits of the dispute.

7. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 19, 2019

B.S. Rohella