

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 42007 of 2021

Priya Ranjan Naik

.....

Petitioner

Mr. P.K. Chand, Advocate

Vs.

Union of India and others

.....

Opposite parties

Mr. D.R. Bhokta, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

10.11.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Chand, learned counsel for the petitioner and Mr. D.R. Bhokta, learned Central Government Counsel.

3. The petitioner has filed this writ petition challenging the order dated 27.04.2021 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 308 of 2015, by which the tribunal dismissed the original application filed by the petitioner being barred by limitation.

4. Mr. P.K. Chand, learned counsel for the petitioner contended that though the petitioner had made several representations, but the same has not been considered, for which he approached the tribunal by filing the Original Application. But the tribunal without considering such fact, has committed gross error while passing the impugned order by dismissing the Original Application filed by the petitioner. Hence, the petitioner has approached this Court in the present writ petition.

5. Mr. D.R. Bhokta, learned Central Government Counsel

contended that even though repeated representations have been filed by the petitioner, but the same will not save the limitation. Hence the order passed by the tribunal is well justified and should not have been interfered by this Court at this stage.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner while working as Dy. Station Superintendent was promoted to the post of Station Superintendent in the scale of pay of Rs.6500-10,500/- and posted at Dhenkanal vide order dated 27.07.1999. The petitioner submitted a representation on 10.08.1999 with a request to relieve him to join in his new place of posting. But vide order dated 27.12.1999 his transfer order dated 27.07.1999 was cancelled and he was posted at Cuttack. On 25.12.2000 after joining as SS Cuttack, the petitioner made a representation to consider his fixation of pay on promotional post w.e.f. 27.07.1999 i.e. his initial date of promotion, but the same was not considered favourably. In the seniority list of Station Superintendents dated 01.10.2004, the date of promotion of the petitioner was shown as 27.07.1999. Without considering the petitioner's grievance with regard to his pay fixation taking his promotional date as 27.7.1999, the petitioner was promoted to the post of Station Manager vide order dated 19.5.2005. Since the opposite parties were silent on the grievance of the petitioner, he approached East Coast Railway Shramik Union and thereafter opposite party No.3 expressed his willingness to give proforma promotion to the petitioner w.e.f. 27.7.1999. But since it could not be materialized, the petitioner made a representation dated 28.10.2013 before opposite party No.2 and on 27.2.2014 through e-mail. But his grievance was disposed of vide order dated 10.3.2014. In the meantime, the petitioner has retired from service on 30.11.2014 and thereafter, he submitted a representation on

06.02.2015 detailing the facts leading to his entitlement of proforma fixation of pay from 01.12.1999, but the said representation was disposed of vide order dated 27.03.2015.

7. As it appears, the cause of action arose for the petitioner in the year 1999, but the same was agitated before the tribunal after 16 years and that too, after his retirement. Even though, the petitioner has filed successive representations, that itself cannot save limitation as such delay is attributable to the petitioner. As a consequence thereof, the tribunal relied on the decision of the apex Court in the case of ***D.C.S.Negi v Union of India & Ors***, Special Leave to Appeal (Civil) No. 7956/2011 wherein it has categorically held by the apex Court that provisions of Section 20 and 21 of the Administrative Tribunals Act regarding limitation cannot be overlooked and it is the duty of the Tribunal to consider the point of limitation even if the plea of limitation has not been raised by the Respondents in their reply. The tribunal also relied on the decision of the Apex Court in the case of ***State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others***, (2013) 12 SCC 179, wherein the question of delay and laches was also considered. The tribunal considering all such facts and applying the ratio decided in aforesaid cases to the case of the petitioner passed the order impugned. Thus, this Court does not find any error apparent on the face of the record.

8. In view of the above, the writ petition merits no consideration and the same stands dismissed accordingly.

(DR. B.R. SARANGI, J.)

(B.P. SATAPATHY, J.)

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