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C.A.No. 5086-5087 OF 1997

Item No.102

COURT No. 3

SEC.XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No.5086-5087/1997 @@
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U.O.I. & Ors.

Appellant (s)

VERSUS

L.M. Srivastava

Respondent(s)

(With Office Report)

Date : 08.11.2001 This appeal was called on for hearing today.@@
AA

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For appellant (s) Mr.T.L.V. Iyer,Sr.Adv.
M/s. C.V.S.Rao,V.Bhandari,C.Radhakrishna,Bal
Ram Das,Adv.for
Mrs. Anil Katiyar,Adv.

For Respondent (s) Mr.K.S.Rana,Adv. (N.P.)

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....J.
.SP2

The appeals are allowed.
There would be no order as to costs.

.SP1
(Y.P.Dhamija) (Suneet Bala Sharma)
Court Master Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5086-5087/1997 @@
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U.O.I. & Ors.

...Appellants

Vs.

L.M. Srivastava

...Respondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....J.
.SP2

These appeals by the Union of India are directed against the order of the Administrative Tribunal granting necessary relief claimed by the respondent following certain earlier decisions of the said Tribunal. Be it be stated tht the respondent was appointed as a Civilian School Teacher in EME Centre, at Allahabad in the pay-scale of Rs.130-300 on 2.8.1963. As the post was not available in the year 1966 while he was continuing, as such on temporary post, he was given the option of being adjusted against a lower post, and on his agreeing he was appointed as a L.D. Clerk on 19.8.1966 in the pay-scale of Rs.110-180. While the respondent was continuing as a L.D. Clerk, post of Civilian Store Keeper having been vacant, an advertisement was issued in the year 1968, and considering the case of the respondent, he was appointed on 5.7.1968 on the post of Store Keeper in the pay-scale of Rs.150-300. While the matter stood thus, another employee Shyam Lal Dubey filed some application

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before the Tribunal claiming certain relief and the Tribunal granted relief in the year 1990. Subsequent to Dubey, some other employees also filed similar applications, which were allowed by the Tribunal, and those orders became final not being assailed by the Union of India. The present respondent filed an application before the Tribunal in 1994 claiming the relief which Dubey and others had got, and contended that he is entitled to the benefit of paragraph 19 (A) and (B) as per the Special Army Order. Before the Tribunal, the department took the stand that the respondent having been appointed as a Store Keeper way back in the year 1968 was not entitled to approach the Tribunal in the year 1994, and therefore on the short ground the application filed before the Tribunal should be rejected. The Tribunal, however, being of the opinion that the similar contention had not been accepted in the earlier cases, rejected the plea of the Union of India, and then following the earlier orders in Shyam Lal Dubey and others, granted the relief claimed. Hence, the present appeals.

Mr. Iyer, the learned senior counsel appearing for the Union of India contended that the Tribunal committed serious error in entertaining an application in the year 1994

in relation to a grievance or cause of action which arose, if at all in the year 1968. He also further contended that the

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finality, that has attached to the earlier orders of the Tribunal, will not be a bar for the Union of India in the matter of interpreting the relevant Army Order on the basis of which the earlier order had been passed, and a bare look on the relevant Army Order would indicate that the respondent would not be entitled to the relief that has been granted. We find sufficient force in both these contentions.

The respondent having been appointed as a Store Keeper in the scale of pay of Rs.150-300 way back in the year 1968 was not entitled to approach the Tribunal making a grievance about the fixation of his pay, and or his seniority in any cadre in the year 1994. The Act under which the Tribunal is constituted prescribes the period of limitation. Even otherwise, any Tribunal or Court would not be clothed with the jurisdiction to entertain an application in relation to a grievance, which occurred 20 years back. The Tribunal, therefore, in our considered opinion committed serious error in condoning the delay and granting the relief in question.

Even on the question of interpretation also having examined the facts and circumstances of the present case, we are of the considered opinion that the relief available to an employee under Para 19 (A) and (B) would not be available to the present respondent. An earlier erroneous orders in

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favour of Shyam Lal Dubey and Jasbir cannot be a ground in granting the relief sought for by the respondent, and in rejecting the contention raised by the employer - Union of India. In this view of the matter, we set aside the impugned order of the Tribunal and allow these appeals. There would be no order as to costs.

.SP1

.....J.
(G.B. PATTANAİK)@@
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New Delhi,
November 8, 2001

.....J.@@
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(DORAISWAMY RAJU)@@
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