

WA 192/2010
BEFORE

HON'BLE THE CHIEF JUSTICE MR MADAN B LOKUR
THE HON'BLE MR JUSTICE BP KATAKEY

The appellant is aggrieved by an order dated 30.10.2009 passed by the learned Single Judge in WP(C) No. 4542/2009.

The appellant is presently working as Lower Division Assistant (LDA)/(Junior Assistant) in the Department of Agriculture, Assam.

The appellant had prayed before the learned Single Judge for a direction to accord him seniority in the said post from 1st March 1978.

Factually, the post was encadred with effect from 1st January 1981 pursuant to the recommendations of the Pay Commission which were given in 1979.

Learned counsel for the appellant has pointed out that soon thereafter he made a representation on 4th July, 1981. That was with regard to upgrading of the post of Accounts Assistant. The representation does not deal with encadrement of the post in 1981.

Be that as it may, the appellant was shown in the encadred post with effect from 1981 and he also obtained a promotion to the next higher post of Senior Assistant on the basis of seniority as on 1st January 1981.

On 23rd April, 2006 when a provisional gradation list was published reiterating the above position, the appellant made a representation to the effect that the post should have been encadred with effect from 1st March, 1978. When this representation did not bear any fruit, the appellant approached the Assam Administrative Tribunal in ATA No. 5/2007.

The Assam Administrative Tribunal directed the State Govt. to pass a speaking order on the representation made by the appellant.

The State Govt. passed an order on 17.10.2007 declining to accede to the request of the appellant. This was then challenged by the appellant before the Assam Administrative Tribunal in ATA No. 3/2008. When even that did not meet with any success, the appellant preferred a writ petition before this Court.

The learned Single Judge has taken into account the fact that the proceedings initiated by the appellant were greatly delayed for which there was no explanation. The learned Single Judge noted that during this period the appellant was promoted to the next higher post of Senior Assistant on the basis of his seniority having been reckoned from 1st January 1981. Consequently, the learned Single Judge declined to interfere with the orders passed by the Departmental authority as well as by the Assam Administrative Tribunal.

We do not find any error in the view taken by the learned Single Judge. We may also add that the appellant is due to superannuate soon as submitted by his learned counsel. If the seniority is disturbed now, it may have an effect on the seniority of several persons over the last thirty years.

We think that in view of the delay caused by appellant in initiating proceedings for correcting the date of his seniority, the existing arrangement should not be disturbed in any manner.

We do not find any merit in this appeal.

The writ appeal is dismissed.