

Jai Dev Gupta vs State Of Himachal Pradesh & Anr on 3 September, 1997

Equivalent citations: AIR 1998 SUPREME COURT 2819, 1997 (11) SCC 13, 1998 AIR SCW 1424, 1998 LAB. I. C. 1400, 1997 (5) SCALE 697, (1999) 1 SERVLJ 110, (1997) 7 JT 650 (SC), 1997 (3) UPLBEC 1713, 1998 (1) UJ (SC) 315, (1997) 77 FACLR 410, (1998) 1 LAB LN 405, (1997) 4 SCT 355, (1997) 3 UPLBEC 1713, (1997) 8 SUPREME 148, (1997) 5 SCALE 697, (1997) 2 CURLR 845, (1997) 5 SERVLR 400, 1998 SCC (L&S) 1587, (1998) 1 LABLJ 63

Bench: K. Venkataswami, V. N. Khare

PETITIONER:

JAI DEV GUPTA

Vs.

RESPONDENT:

STATE OF HIMACHAL PRADESH & ANR.

DATE OF JUDGMENT: 03/09/1997

BENCH:

K. VENKATASWAMI, V. N. KHARE

ACT:

HEADNOTE:

JUDGMENT:

Present:

Hon'ble Mr. Justice K. Venkataswami Hon'ble Mr. Justice V.N. Khare Hardev Singh, Sr. Adv., Ms. Madhu Moolchandani, Adv. with him for the appellant Rajiv Nanda and T. Sridharan, Adv. for the Respondents The following Order of the Court was delivered:

O R D E R K. Venkataswami, j.

The appellant approached the central Administrative Tribunal for the relief that he is entitled to the pay-scale of Lecturer in Commercial arts though he was appointed to the post of 'Studio Artist'. In addition to that he claimed the difference in the salary from the year 1971. He approached the Tribunal for this relief in May, 1989. The Tribunal accepted the claim of the appellant that he should be paid the salary of Lecturer in Commercial Arts though he was appointed to the post of 'Studio Artist' in View of the fact that he was performing the duties of Lecturer in Commercial Arts. However, the Tribunal granted the relief of difference in backwages from May, 1988 only on the ground that under Section 21 of the Administrative Tribunals Act the period of one year is prescribed for redressal of grievances. Against the decision of the Tribunal that the appellant is entitled to be paid the salary of Lecturer in Commercial Arts though he was appointed as 'Studio Artist' the respondents have not filed any appeal. The appellant has preferred this appeal claiming the difference in backwages from the date of his posting as Lecturer in Commercial Arts.

Learned counsel appearing for the appellant submitted that before approaching the Tribunal the appellant was making number of representations to the appropriate authorities claiming the relief and that was the reason for not approaching the Tribunal earlier than May, 1989. We do not think that such an excuse can be advanced to claim the difference in backwages from the year 1971. In Administrator of Union Territory of Daman and Diu & Ors. Vs. R.D. Valand 1995 Supp(4) SCC 593 this court while setting aside an order of Central Administrative Tribunal has observed that the Tribunal was not justified in putting the clock back by more than 15 years and the Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way. In the light of the above decision, we cannot entertain the arguments of the learned counsel for the appellant that the difference in backwages should be paid right from the year 1971. At the same time we do not think that the Tribunal was right in invoking section 21 of the Administrative Tribunals Act for restricting the difference by backwages by one year.

In the facts and circumstances of the case, we hold that the appellant is entitled to get the difference in backwages from May, 1986. The appeal is disposed of accordingly with no order as to costs.