

SUPREME COURT OF INDIA

N. Annappa

Vs.

State of Karnataka

(V Khare and R Lahoti JJ.)

10.05.1999

ORDER

1. Leave granted.

2. The appellant herein filed an application before the Karnataka Administrative Tribunal, challenging the gradation list. For want of material, the Tribunal rejected the said application, keeping open all the contentions raised in the said application. Subsequently, the appellant filed another application before the Tribunal. When the application came up for hearing, the Tribunal dismissed the same on the ground that it was barred by the principles of res judicata. Thereafter, the appellant took the matter to the High Court. The High Court affirmed the judgment of the Tribunal. It is against these orders that the appellant is in appeal before us.

3. After hearing learned Counsel for the parties and having perused the records, we find that when on an earlier occasion the appellant approached the Tribunal, the Tribunal rejected the application of the appellant by observing as follows

For want of any material, it is not possible for us to consider the application before us. Hence we dismiss this application keeping open all the contentions raised.

4. From the aforesaid observation, it is clear that the Tribunal did not dismiss the application of the appellant on merits, more so, kept all the contentions raised in the application to be agitated subsequently. In view of the said fact, it was not correct on the part of the Tribunal and the High Court to have rejected the second application on the ground that the second application was barred by the principles of res judicata. We, accordingly, set aside the orders dated 13-1-1998 and 27-1-1998 and send the matter back to the Tribunal for deciding. Application No. 5949 of 1996 filed by the

appellant on merits. The appeal is allowed accordingly. However, there shall be no order as to costs.