

O.A-350/1281/2014
MA-350/516/2017
With
O.A-350/698/2014



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 350/1281 of 2014

M.A No. 350/516/2017

IN THE MATTER OF: With

O.A-350/698/2014

PRASANTA KUMAR MANDAL (SC),

son of Late Haripada Mandal, aged about 47 years, residing at 'Ankita Apartment', Post Office- Nabapally, Police Station-Barasat, District- 24-Parganas (North), Pin-700126 at present working as Private Secretary under Learned Presiding Officer, Debts Recovery Tribunal-I, Kolkata;

...Applicant

-Versus-

1. UNION OF INDIA service through the Secretary, Ministry of Finance, Department of Financial Services (Banking Division), Jeevan Deep, Parliament Street, New Delhi-110001.

2. THE JOINT SECRETARY, Ministry of Finance, Department of Financial Services (Banking Division), Jeevan Deep, Parliament Street, New Delhi-110001;

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3. THE UNDER-SECRETARY, Ministry of
Finance, Department of Financial
Services (Banking Division), Jeevan
Deep, Parliament Street, New Delhi-
110001;

4. THE PRESIDING OFFICER, Debts
Recovery Tribunal-I, Kolkata, ^{42 C.J.L NPH}
Old Post
Road
Office-Street, 8th Floor, Kolkata- 700001;

...Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1281/2014
M.A.350/516/2017
With
O.A.350/698/2014

Date of order : 22.1.2016

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

PRASANTA KUMAR MONDAL

VS.
UNION OF INDIA & OTHERS

For the applicant : Mr. P.C. Das, counsel

For the respondents : Mr. R. Halder, counsel

ORDER

Bidisha Banerjee, Judicial Member

O A.350/1281/2014

M.A.350/516/2017

Ld. counsels were heard and records were perused.

2. By way of this O.A., a Private Secretary in DRT-I, who aspires for promotion to the post of Recovery Officer under the respondents has sought for the following reliefs:-

"a) To pass a mandatory order quashing and/or setting aside the finding as paragraph 5 of the letter dated 26th March, 2014;

b) To pass the mandatory order directing the appropriate authority not to raise further allegation relating to the proceeding allegation for forging signature of Late Shri Shastri against the applicant and also not to continue any enquiry proceeding relating to the forging signature of Late Shri Shastri against the applicant;

c) To pass such order or orders as to Your Lordship may deem fit and proper."

3. The records of the instant matter reveal the following :-

The Recruitment Rules for the post of Recovery Officer in DRT, as contained in GSR 634 regulating the method of recruitment of Group 'A' and 'B' Gazetted and Group 'B' Non-Gazetted posts in Debt Recovery Tribunal prescribes the following mode of selection for the post of Recovery Officer and the following criteria to be fulfilled by an aspirant:-

1	2	3	4	5	6
Recovery Officer	2*(Two) (2001)	General Central Service, Group 'A'	Rs.10000-325- 15200	Not applicable	Not applicable
	*Subject to variation depending on workload.	Gazetted Non- Ministerial			
7	8	9	10		
Not applicable	Not applicable	No	Two years		
11	12				
Promotion/deputation	<u>Deputation</u>				
	(i) Officers holding analogous posts in the Central, State Governments or Judicial and Revenue Services or having eight years' regular service as Section Officer or an equivalent post in the scale of Rs.6500-10500				
	(ii) Scale IV Officers of the public sector banks holding analogous post.				
	(iii) Scale III Officers of public sector banks with five years' service				
	(iv) Officers in the public sector banks who have already held the post of Recovery Officer or equivalent post in a tribunal for a period of three years.				

Desirable :

Preference will be given to persons having legal experience or experience in recovery matters.

Note 1 - Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)



The said Rule was amended by a notification dated 25th June, 2013 GSR 416E by the Debts Recovery Tribunal No.1, Kolkata Groups 'A' and 'B' Gazetted and Group 'B' Non-Gazetted Posts Recruitment Rules, 2013. The amendment was as under:-

7. In said rules, against serial number 3 relating to the post of Recovery Officer,-

(i) in column 4, for the column heading and the entries therein, the following column heading and the entries shall be substituted, namely:-

"Scale of pay or Pay band and grade pay or pay scale."
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Pay band -3, ₹ 15,600 -39,100 with grade pay of ₹ 6,600.

(II) column 6 and the entries therein shall be omitted.

(III) in column 12,-

(A) under the heading Deputation, for item number (i), the following item shall be substituted, namely:-

(i) Officers of the Central Government or State Government or Union territory Administration or State Judicial Service:

(a) holding analogous post on regular basis in the parent cadre or Department; or

(b) Section Officer with five years' service in the grade rendered after appointment thereto on a regular basis in pay band -3, ₹ 15600 - 39100 with grade pay of ₹ 5400 or equivalent Group 'B' Gazetted Officer in the parent cadre or Department; or

(c) Section Officer with six years' service in the grade rendered after appointment thereto on a regular basis in pay band -2, ₹ 9300 - 34800 with grade pay of ₹ 4800 or equivalent Group 'B' Gazetted Officer in the parent cadre or Department; or

(d) Section Officer with seven years' service in the grade rendered after appointment thereto on a regular basis in pay band -2, ₹ 9300 - 34800 with grade pay of ₹ 4600 or equivalent Group 'B' Gazetted Officer in the parent cadre or Department."

implying thereby that for the post of Recovery Officer, officers holding "analogous posts" on regular basis could seek appointment as Recovery Officer on deputation.

The applicant who at the material time was serving as Private Secretary in DRT-1, in the pay scale of 9300-34800 with Grade Pay of

Rs.4600/- applied for the post of Recovery Officer/Assistant Registrar in the DRT on deputation, against Department's vacancy circular published in the Employment News from 1-7 February, 2014. He appeared at the interview on 29.05.2014 but was not selected against any of the two vacancies advertised.

Once again he applied for the post of Recovery Officer/Assistant Registrar to be inducted on deputation basis in response to vacancy circular dated 21st August, 2015 and appeared at the interview on 21st January, 2016, but was not selected.

The Registrar, Debts Recovery Tribunal-1 has affirmed an affidavit reply to contend that as per Recruitment Rules applicable at the material time, the post of Private Secretary was a Group 'B' Gazetted post in PB-2 with scale of pay of 9400-34800 and Grade Pay of Rs.4600/- whereas the post of Recovery Officer was a Group 'A' Gazetted post in PB-3 with scale of pay of Rs.15600-39100/- and Grade Pay of Rs.6600/-. Thus the posts of Private Secretary and Recovery Officer were in different pay bands with different Grade Pay and therefore not "analogous". Para 7(A)(i)(a) of the Recruitment Rules dated 25.06.2013 (as referred to in page 48 of the O.A.) was not fulfilled by the applicant.

4. We discern from the amendments made in 2013 that officers of Central Government or State Government or Union Territory Administration or State Judicial Services holding analogous posts on regular basis in the parent cadre or department could apply for

consideration or Section Officer with 5 years' service in the PB-3 Grade Pay of Rs.5400/-, or Section Officer in the PB-2 with Grade Pay of Rs.4800/- with 6 years' service in the grade, or Section Officer in PB-2 with Grade Pay of Rs.4600/- with 7 years service in the grade etc. have been allowed to apply for consideration. Since the applicant was a Private Secretary and not a Section Officer he was not entitled. He also did not hold an analogous or a similar post as that of Recovery Officer having a Grade Pay of Rs.6600/-. The posts of Private Secretary and Recovery Officer are incomparable. They exist in different pay bands etc. Hence the applicant was clearly and evidently not entitled to apply. But reason why his application was forwarded is not forthcoming. The applicant has also failed to show that he could be termed as holder of "analogous post" as a Section Officer to qualify in terms of Para (d) supra.

4. Ld. counsel for the applicant vociferously submitted that the reason why the applicant was not granted appointment was a pending proceeding in regard to fraudulent withdrawal of LTC, whereas C.N.V.D. Sastry who had issued the showcause Memo dated 25.11.2010 as in Annexure A/7 of the O.A. alleging fraudulent claim of All India LTC and issued a show cause, had himself dropped the disciplinary cases by an order dated 09.12.2010 as contained in Annexure A/8.

The respondents have disputed the fact that C.N.V.D Sastry, who acted as Disciplinary Authority, had in fact dropped the case vide Memo dated 09.12.2010 inasmuch as they have claimed that the document

dated 09.12.2010 was a forged one and furnished a report of the Central Forensic Laboratory of Kolkata in support. A bare perusal of the report with the forwarding letter dated 27.01.2016 would disclose that the said document marked as Q-1, is a forged Government document as the signature was not appended by Mr. C.N.V.D Sastry in the said Government document and forgery of his signature has been established.

Therefore, the claim of the applicant for consideration against the post of Assistant Registrar is not tenable on both the counts i.e. ineligibility of the applicant being a Private Secretary and not a Section Officer in the Grade Pay of Rs.4600/- and also pendency of disciplinary case at the material time when he was sought to be considered on the basis of his application.

5. Accordingly the O.A. being devoid of merit fails and is dismissed. The M.A. also stands dismissed.

O.A.350/698/2014

6. In this O.A. the applicant has sought for the following reliefs:-

"a) To pass an appropriate order directing upon the respondent authority to issue call letter for considering the candidature of the applicant for appointment to the post of Assistant Registrar and Recovery Officer in Debts Recovery Tribunals which is going to be held on 28.05.2013 at New Delhi in terms of the notification issued by the respondent authority vide Annexure A-1 of this original application;

b) To pass an appropriate order directing upon the respondent authority to produce all the relevant records in terms of the notification published by the respondent authority in Employment News dated 09.01.2014 and 20.02.2014 for appointment to the post of Assistant Registrar and Recovery Officer in respect of the applicant as well as other candidates for proper adjudication of this case;

c) Costs;



d) Any other relief or reliefs."

7. Ld. counsel for the respondents would submit that the notification was issued on 09.01.2014 for appointment of Assistant Registrar, six in numbers and Recovery Officer, 21 in numbers including that of Kolkata. The last date for submission of application was 24th February, 2014 and the deputation period was for 3 years. In terms of Note B Rule 4 of Recruitment Rules of 2013, deputation shall not ordinarily exceed 4 years which period has already expired. Therefore, the O.A. has become infructuous. That apart, post of Private Secretary is not analogous to that of Recovery Officer. Hence, the plea of the applicant is not tenable. Further, notification was issued on 21st August, 2015 and the applicant had appeared at an interview on 21.01.2016, but the contesting candidates were Chief Managers of Banks, Under Secretaries to Central Government and State Government, Deputy Directors, Administrative Officers who were far superior to and more qualified than the present applicant.

8. In view of such and in view of the order passed in O.A.No.1281/2014, the O.A. also stands dismissed. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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