

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00729/2016**

Date of order: 12.02.2020

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Akanchha Sinha, wife of Sri Sudhir Chandra Sinha, Junior Accountant, Office of the Controller of Communication Accounts, Bihar Circle, 2nd Floor, CTO Annexe Building, Patna-800001 (Bihar).

.... **Applicant.**



By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Secretary, Department of Telecom, Ministry of Communication and Information Technology, Sanchar Bhawan, 20, Ashoka Road, New Delhi- 110001.
2. The Assistant Director General (SEA) Department of Telecom, Ministry of Communication and Information Technology, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001.
3. The Controller of Communication Accounts, Bihar Circle, 2nd Floor, CTO Annex Building, Patna- 800001 (Bihar).
4. The Controller Accounts Officer (ADMN), Office of the Controller of Communication Accounts, Bihar Circle, 2nd Floor, CTO Annexe Building, Patna-800001 (Bihar).

.... **Respondents.**

By Advocate: - Mr. H.P. Singh

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for quashing the order dated 18.05.2016 issued by respondent no. 2 (Annexure A/10) by which the applicant's claim for permanent absorption in DOT has been allegedly turned down illegally and unreasonably . She has also requested for directing the respondents to

issue orders for permanent absorption of applicant in DOT against the post of Junior Accountant without any further delay and to grant all consequential benefits. The applicant has claimed that she had been on deputation to DOT earlier from 03.02.2003 to 25.05.2007 and later, in response to a notification dated 12.08.2009 for appointment against vacant post of Junior Accountant under direct recruitment quota or permanent absorption basis, she submitted her application on 12.10.2009. Thereafter, the respondents, after receipt of application forms of concerned employees, issued one list of optees on 10.05.2010 in which the name of the applicant is at Sl. No. 40. It is submitted that in the meanwhile, the applicant came on deputation to DOT on second time on 18.06.2020 and when she came to know that persons, whose names were much below the list of optees, have been absorbed permanently in the DOT at Bihar, she submitted representations, including dated 12.06.2013 (Annexure A/3), for permanent absorption.

Her representation was forwarded with favourable recommendation by his controlling authority to the Director, SEA Section, Department of Telecommunication, Delhi vide communication dated 01.08.2013 (Annexure A/4). Though she has been pursuing the matter she has been informed, vide letter dated 25.02.2015 (Annexure A/7), that the request of the applicant cannot be accepted as there is no vacancy in direct recruitment quota. The applicant has alleged that this is contrary to truth since no post of Junior Accountant has been filled by permanent absorption among deputationists after 01.08.2013. The applicant has



again sent duly recommended representations but she has received the impugned letter dated 18.05.2016, in which it has been intimated that the process of absorption was a one-time measure which has been concluded since back in 2011 and no new inductions are to be undertaken as part of the permanent absorption process barring specific orders from the Courts, if any. The applicant has challenged this impugned order on ground of it being discriminatory, in violation of Article 14,16, 21 and 311 of the Constitution, and, also against the principle of promissory estoppel and various judicial pronouncements of the Hon'ble Supreme Court/ High Court/Tribunal.

2. A written statement has been file by the respondents in which they have denied the claim of the applicant. They have stated that appointment on permanent basis, following the advertisement dated 12.08.2009, was a one-time measure. The applicant had also applied against this notification. However, it was clearly mentioned in the Annexure/A attached to the Department's letter No. 33-23/2005-SEA-II dated 24.08.2010 (Annexure R/2) that deputationists, who earlier worked in CCA offices, and had been repatriated to their parent department/Ministry before 17.12.2008, and had applied for permanent absorption in the DOT, were not be considered as deputationists and their candidature was to be treated at par with other candidates. Since the applicant has secured 19 marks (based on ACR) and the last candidate selected securing 23 marks, the application of applicant for



permanent absorption could not be accepted. It is also stated that there was no vacancy as on 25.02.2015 under direct recruitment quota, as alleged, and the same is true till date. The written statement prays for dismissing the OA for these reasons.

3. No rejoinder has been filed.

4. We have gone through the pleadings and heard the arguments of learned counsels of both the parties. Ld. Counsel for the applicant, besides reiterating the arguments mentioned in the OA, also argued that the rejection on the basis of lesser marks assigned for the ACR records (Annexure R/3) is also wrong since the applicant has been given lesser marks despite her ACR records having been comparable to others shown in the list, who have been assigned higher marks.

5. After going through the pleadings and hearing the arguments, it is clear that the applicant has not been able to produce anything to show that she has a right to get permanently absorbed under the DOT except on grounds of alleged promissory estoppel and discrimination amongst similarly placed persons. The reply of the respondents is that their notification seeking permanent absorption was a one-time measure and they had already decided on the requests received against that notification and had selected candidates on the basis of a transparent criteria. The applicant has not been able to give any specific instance of anyone, who was exactly similarly placed as her, who was allowed to be permanently absorbed without having any



superior claim (such as better ranking in terms of ACRs). In such a situation, the only claim which the applicant could have is based on the argument, made during the course of hearing, about seeming incongruity in the marks assigned to the gradings of the ACRs of the last five years as tabulated in Annexure R/3. We have gone through this record (Annexure R/3) and find that the applicant, who is listed at no. 34, is assigned 19 marks for having 2 'Outstanding' and 3 'Good' ACRs. We could not find any apparent inconsistency in the marks given to those candidates who are alleged to have been selected since their gradings in the last five years ACRs are clearly better than that of the applicant. For all these reasons, we do not see any merit in the claim made by the applicant to have herself permanently absorbed. The OA is, therefore, dismissed. No costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member

