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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No. 616/2017

Date of decision: 17.02.2020

CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).

Bhagwan s/o Vikram Gawai
Age: 58 years, Occ. Service,
R/o C/o Shri Ravi Sakharam Sarkate,
A-11, Kewda Niwas, Seva Nagar,
Behind Sumeet Company, Ambad,
Nasik-10.

Office Address: District Youth
Co-ordinator, Nehru Yuva Kendra,
Pranay Building, Tidke Nagar,
Near Donde Bridge, Nasik-8.

... **Applicant.**

(By Advocate Shri V. S. Borkar)

VERSUS.

1. Union of India through its Secretary to Government of India, Ministry of Youth Affairs and Sports, Department of Youth Affairs, Shastri Bhavan, C-Wing, New Delhi-110 001.
2. The Director General, Nehru Yuva Kendra Sangathan, 2nd Floor, Core-IV, Scope Minar, Laxmi Nagar, District Center, Vikas Marg, Delhi-110 092.
3. The Executive Director, Nehru Yuva Kendra Sangathan, 2nd Floor, Core-IV, Scope Minar, Laxmi Nagar, District Center, Vikas Marg, Delhi 110 092.
4. The State Director, Nehru Yuva Kendra Sangathan, J. P. Naik Bhavan, 2nd Floor, Vidyapeeth Campus, Vidra Nagri, Kalina, Santacruz (East),

Mumbai-400 098.

... Respondents.

(By Advocates Shri N. K. Rajpurohit)

O R D E R (O R A L)

Per: R.N. SINGH, MEMBER (J)

1. When the case is called out, Shri V. S. Borkar, learned counsel appeared for the applicant.
2. Shri N. K. Rajpurohit, learned counsel appeared for the respondents.
3. Heard the learned counsels for the parties.
4. This OA has been filed on 28.09.2017 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"A) Call for the entire Record of the case.

B) After perusal of the impugned order of promotion and pay fixation dated 30-01-2015 at Annexure-A-1 with reference to the representations made by the applicant from dated 21-10-2014 onwards, still no relief has been granted inspite of that, therefore, it is just and proper to direct the Respondents to re-fix the pay and allowances from the date 30-1-2015 of Incharge of District Youth Coordinator from 2nd August, 2007 and effect of pay and allowances from the same date.

C) To issue any order or directions to the Respondents as per the guidelines of Their Lordships decided in the aforesaid paras in the identical matters in favour of the Applicant.

D) Issue any order or direction which this Hon'ble Tribunal deems fit and adequate in favour of the Applicant in view of the facts and circumstances.

5. The applicant commenced services with

the respondents in Nehru Yuva Kendra (N.Y.K.) as an Accounts Clerk-cum-Typist (U.D.C.) on 25.08.1983 and thereafter, while in this capacity, he alongwith other similarly placed persons was posted vide order dated 07.07.2007 to work at various centers as District Youth Coordinator In-Charge purely on temporary basis and he had been working in this capacity since then. The orders made it clear that the arrangement shall not confer any right for regularization in the post of District Youth Coordinator the applicant shall continue to get the salary in his substantive pay scale until the constitution of DPC.

6. The applicant was promoted as Administrative Officer on 09.07.2009 and then challenged order of his reversion in OA No.428/2012 before this Bench of this Tribunal. In the said OA, the applicant has sought quashing of the orders of the reversion and has also prayed for directions to the respondents to regularize his promotion as District Youth Coordinator w.e.f. 07.07.2007 itself. However, the said OA was disposed of vide order dated

04.01.2013 (Annexure A-5) with the following directions:

"6. Having heard learned counsel for the parties and perusal of the case record, we do not find any reason to interfere with the impugned order by which the applicant has been ordered to be reverted as Administrative Officer. However, in the peculiar facts and circumstances of the case, we are satisfied that the grievance of the applicant that his promotion as District Youth Coordinator need not have been left in limbo for such a long period is fully justified. Admittedly, Applicant had been working as District Youth Coordinator In-charge for more than five years. Respondents do not have a case that applicant is not entitled to be promoted as District Youth Coordinator.

7. If vacancies are available and if the applicant is due for promotion, the respondents have to necessarily start the process without any further delay. Accordingly, the Respondents are directed to constitute a Departmental Promotion Committee and consider the case of the applicant and other similarly placed officers for promotion as District Youth Coordinators strictly in accordance with the rules, and as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this order. The interim order of status quo shall remain in force till a decision is taken as directed above."

7. Subsequently, the respondents vide their orders dated 30.01.2015 (Annexure A-6) on the

basis of the recommendation of the DPC held on 17.11.2014 promoted 15 persons including the applicant w.e.f. the date they join as Assistant Director/District Yuvak Coordinator of Nehru Yuva Kendra Sangathan and the applicant after being so promoted superannuated in this capacity.

8. The applicant has now again raised his claim for gaining pay and allowances for the post of District Youth Coordinator In-Charge by way of the present OA.

9. In their reply, the respondents have contended that while assigning the work of District Youth Coordinator it was enshrined in the offer that such appointment shall not confer any right of confirmation as District Yuvak Coordinator and the appointee would continue to draw his existing pay scale. They have also referred to the decision of this Tribunal in OA No.428/2012. They have further referred to an order of the coordinate Bench of this Tribunal at Patna in OA No.01/2015 and CCPA No.42/2015 dated 02.06.2017 which considered the similar case of an applicant who was holding the substantive post of Accounts Clerk cum Typist and with regard to

similar claims prayed by the applicant therein dismissed the OA after considering the earlier order of this Tribunal in the aforesaid OA No.428/2012 and all relevant materials. The Tribunal ordered as under:

"15. As per the settled law, no order for promotion can be given against departmental rules and to the post to which an employee is not eligible. No direction can be given to the authorities to continue an employee to a higher post to which he was not eligible, just because in the post he was given officiating charge of that post. Therefore, there is nothing wring in the reasoned order passed by the authorities.

16. The claim for getting pay of the higher post of DYC is not tenable, because they accepted the assignment in terms of the order which clearly stipulated that this would not confer any right for regularization as DYC and that they would continue to draw their existing pay scale. Continuation on a higher post on the strength of an interim relief order of a court does not create an extra right if such right was not permissible under the departmental rules.

17. In conclusion, there is no merit in the OA. Hence, dismissed. The order of status quo is vacated. No costs. CCPA No.42 of 2015 is accordingly dropped and notices stand discharged. We would like to record our appreciation to Mrs. PR Laxmi, the counsel for the respondents for the able assistance rendered by her."

10. In view of the aforesaid, we are in respectful agreement with the ratio and decision of the orders already passed by the Patna Bench of this Tribunal in OA No.01/2015 in which the order of this Tribunal in OA No.428/2015, filed by the present applicant and other relevant materials have been considered in detail.

11. In view of the above, we find the OA devoid of any merit and the same is accordingly dismissed. However, in the facts and circumstances, no order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

