

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.639/1998

New Delhi, this ^{12th} 5th day of February, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

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1. S.C. Saxena
G-212, Preet Vihar, New Delhi
2. (late) Chiranjit Lal, through L/Rs
 - a) Smt. Bimla Gambhir
 - b) Smt. Chander Bala
 - c) Chander Mohan Gambhir
 - d) Parveen GambhirAll r/o G-53, West Patel Nagar
New Delhi .. Applicants

(By Shri V.K. Rao, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi
2. Controller General of Accounts
Ministry of Finance
Lok Nayak Bhavan, New Delhi .. Respondents

(By Shri K.C.D.Gangwani, Sr. Advocate)

ORDER

By Shri M.P. Singh

Applicants, five in number, have challenged the order dated 24.7.1997 by which their request for regularisation/upgradation of Divisional Accountants (DAs, for short) ^{has} been turned down by the respondents.

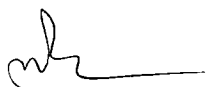
2. Heard the learned counsel for the contesting parties and perused the records.

3. It is the case of the applicants that they were initially appointed as Emergency Divisional Accountants (EDA, for short) on ad hoc basis, that they have been working as such for the last 18-30 years without any service benefits though they have been shouldering responsibilities of JAO/AAO/DA(SG) etc., that as per the




CAG Manual respondents were to conduct test after completion of two years of service for the purpose of their regularisation which the latter failed to do. Also R-1 had recommended regularisation of the services of the applicants to the Ministry of Finance w.e.f. 1.7.79 the same was not accepted by that Ministry. However the respondents conducted the examination in February, 1995 in terms of para 316 of CAG Manual VII, in which applicants claim to have been declared successful. They sent representations to the respondents for their regularisation, which resulted in issuance of the impugned letter dated 24.7.1997. That is how the applicants are before us seeking regularisation of their services from the date of their initial appointment with all consequential benefits.

4. It is the case of the respondents that applicants who had retired from service with effect from 30.11.96 and 30.4.1995 had passed Special divisional Grade exam held in February, 1995 and thereafter their services were regularised w.e.f. 11.2.95. They contend that as per the policy decision of the Government the post of DA/EDA became a dying cadre as a result of which there was no provision under any obligation to hold DA Examination periodically. However, special Divisional Grade Examination was held in February, 1995 as a one time measure only because it was noticed that some employees had retired as EDAs without being regularised as DA and some of them stagnated as EDA for several years. Respondents also contend that they have helped/favoured the applicants by holding a separate test for them in order to regularise their services keeping in view their length of service but they failed



to qualify the exam. It is their contention that the applicants had retired from service very long back and their pension, DCRG etc have since been settled on their retirement, the present OA filed in 1998 is barred by limitation. 25


5. We find from the communication dated 18.9.96, on which the applicants have placed their reliance, ^{wherein} Controller General of Accounts, Department of Expenditure, Ministry of Finance (R-2) has opined that merely because of administrative delays in conducting a Divisional Test at various levels, it would be manifestly unfair to deny the applicants benefit of past service, if they are to be regularised from the date of their passing Divisional Test (Feb.95) especially because they were not responsible for not holding of Divisional Test. They have further opined that the applicants can be regularised w.e.f. 1.7.88 i.e. the date from which selection grade(s) were introduced in the cadre; while period from 1.7.88 onwards would count for earning increments in the scale of DAs, arrears would be payable only from 11.2.95 i.e. day following the day of examination which would meet the ends of justice, as the applicants were in no way responsible for delays in holding the test which was entirely on administrative reasons. However, the counsel for the respondents argued that the above note is merely a proposal which can by no means be treated as final decision of the Government. The final decision is the one which has been indicated in the reply dated 24.7.97 and therefore applicant's reliance on this note is uncalled for. We do not agree with this contention.

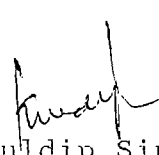


6. When R-2 himself, being the cadre controlling authority of the applicants, has opined and recommended the claims of the applicants as aforementioned, the denial of the benefit to the applicants by the DoPT is not justified. The prayer of the applicants is genuine and should have been granted by the respondents instead of denying by a non-speaking order.

7. In the circumstances, we allow the present OA and direct the respondents to regularise the services of the applicants from 1.7.88 and grant them all consequential benefits as per rules. However, applicants shall be eligible for arrears of salary and allowances from 11.2.95 till their date of retirement. This shall be done within a period of two months from the date of receipt of a copy of this order.

8. There shall be no order for costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

/gtv/