

Central Administrative Tribunal, Principal Bench

Original Application No.25 of 2000

New Delhi, this the 10th day of November, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S. A. T. Rizvi, Member (A)

Shri Shahabuddin Khan
working as Carpenter
in the Central Road Research Institute,
Maharani Bagh Staff Quarters of CRRI,
Maharani Bagh,
New Delhi-110 065. - Applicant

(By Advocate - None)

Versus

1. Council of Scientific & Industrial
Research, Anusandhan Bhawan,
Rafi Marg, New Delhi-110 001
through the Joint Secretary (Admn.).
2. Director,
Central Road Research Institute,
P.O. CRRI,
Delhi Mathura Road,
New Delhi-110 020. - Respondents

(By Advocate - Ms. Getanjali Goel).

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this OA is aggrieved of the fact that the respondents have refused to count the services of the applicant which he had rendered from 1.6.81 to 31.10.1995 on the basis of the work charged posting for the purpose of assessment-promotion to the next higher grade post.

2. The case of the applicant is that he was recruited on the work charged post of Carpenter on 1.6.1981 by following the recruitment procedure as after recruitment to the post of Carpenter the applicant was medically examined, his character antecedents were also verified and he was admitted to

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the GPF. Besides that, he was also allowed to cross the Efficiency Bar on the post of Carpenter, but the respondents are not counting his past service for the purpose of assessment-promotion to the next higher grade on the plea that the applicant was not recruited by following the recruitment procedure, which plea of the respondents is false because otherwise the applicant would not have been medically examined and not admitted to the GPF. The applicant, therefore, seeks a direction from this court to the respondents to the effect that they be directed to count the services of the applicant as work charged carpenter w.e.f. 1.6.81 to 31.10.95 in a regular pay scale on which he was appointed and after counting his service, the respondents should order assessment-promotion after 7 years from 1.6.88 and further from 1.6.95 and so on.

3. The applicant further states that his case is within the period of limitation since one of his colleagues who had been recruited on work charged post as Plumber has been informed vide order dated 10.11.99 that his services for the purpose of assessment could not be counted and similar orders would be issued in the case of applicant as he is a similarly situated person so the application is within the limitation period.

4. The applicant also pleads that his services had been regularised and he had been sent for medical examination and was also admitted to the PF account.

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and allotted GPF account number as well, therefore, it cannot be said that he was not working on regular basis. The applicant is alleging that he had filed an OA No.1697./94 wherein the directions were given to the respondents to regularise the applicant by giving him some relaxation and the OA was disposed of on 4.5.95. Hence, the applicant claims that he is entitled to the benefits of service rendered by him for assessment-promotion. (11)

5. The respondents have taken up an objection that the application is barred by time since the applicant has prayed for a direction to count his service w.e.f. 1.6.1981 to 31.10.1995. Thus it is clear that the applicant is seeking benefits in respect of the services rendered by him quite long back and even after he was regularised in the year 1995, he had not asked for counting of his service and this OA has been filed only on 4.1.2000, as such it is time barred. Thus on that score alone, the OA is time barred.

6. On merits the respondents submitted that vide letter dated 30.4.84 the CSIR extends the benefits of counting of past service rendered on the work charged establishment followed by transfer to regular establishment and an employee is allowed to count his past service for pensionary benefits in terms of CSIR letter dated 18.3.1981 and in computing for assessment-promotion to the next higher grade as per the new assessment-promotion scheme, an employee has to fulfil the following conditions:-

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(a) That the service rendered in work-charged and regular posts is in the same grade and scale of pay;

(b) that the effective date of assessment promotion will not be earlier than the date of appointment of the individual to the regular establishment irrespective of the length of service on work-charged posts; and

(c) that the incumbent should possess the qualifications and experience prescribed for the post and should have been recruited on work-charged posts in accordance with the prescribed recruitment procedure.

7. It is further pleaded that since the applicant does not fulfil those conditions and he has been working on non-regular work charged post grade for the specific work and without following the prescribed recruitment procedure, so his services cannot be counted for the purpose of assessment/promotion.

8. We have heard the learned counsel for the respondents since no one for the applicant turned up to argue the case and we have proceeded to decide the case on merits.

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9. At the outset we may mention that the applicant is claiming that his O.A. is within time on the basis of a letter at Annexure A-1 which was issued to some other employee and the applicant was orally told that similar orders would be passed in the case of the applicant also since he is also a similar situated person. In this regard we may mention that on the basis of Annexure A-1 which has been passed by the respondents in case of some other employee, that cannot extend the period of limitation for the purpose of filing the present OA by the applicant. The applicant on the point of limitation has submitted in his OA that he has been making representations but no order has been passed by the respondents. Merely that an order had been passed in the case of some other employee the applicant cannot expect that similar orders would be issued in his case also as he is also a similarly situated person, so his application is within the period of limitation.

10. Besides that we may also mention that the applicant was regularised by virtue of an order passed in the case of the applicant in OAU 1697/94 whereby the Tribunal had given a specific direction to the respondents to regularise the applicant after exercising powers of relaxation in terms of his educational qualification. First of all from that date till the filing of the present OA, the applicant has not asked for counting of his past service nor he has come against any order passed by the respondents whereby the respondents had refused to count his service for the purpose of assessment-promotion, so

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the application is being filed after 4 years from the date of his regularisation as counting of his past services is itself barred by limitation, so the OA has to be rejected.

11. Even on merits since the judgment in the earlier OA has been placed by the applicant himself on record do show that the applicant was regularised even on work charged post on the basis of the order passed by this Tribunal whereby the Tribunal had directed the respondents to exercise the power of relaxation as regards the educational qualification of the applicant is concerned. That itself goes to show that till the time the judgment was passed, the applicant was working only on ad hoc basis on work charged post and his appointment was irregular since he did not possess the requisite educational qualification. So on merits also, he has no claim to get his past service counted for the purpose of assessment-promotion.

12. In view of the above, OA has no merits and the same is dismissed. No costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

/Rakesh/