

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2666/2000

New Delhi, this 12th day of July, 2001

Honble Shri Justice Ashok Agarwal, Chairman
Honble Shri M.P.Singh, Member(A)

Hori Lal Katiyar
H-317, Govindpuram
Ghaziabad, U.P. .. Applicant

(By Shri Chittaranjan Hathi, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Defence
South Block, New Delhi
2. Director General Research & Development
Directorate of Personnel (RD-PERS-9)
Ministry of Defence, DHQ, New Delhi
3. CEES, through Director (DIFR)
Brig SD.K.Majumdar Marg, Timarpur
Delhi-54 .. Respondents

(Shri P.P.Ralhan, proxy for Shri J.B. Mudgil, Advocate)
Advocate)

ORDER(oral)

By Shri M.P. Singh

Applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 by praying for direction to give him notional promotion to the post of Office Superintendent-II (OS-II, for short) from 1.5.92 to 15.5.95 and to give him consequential benefits and also to revise the pensionary benefits. He has also sought direction to the respondents to count the previous service rendered by him under the District Magistrate, Farrukabad, UP during 1960-63 for pensionary benefits.

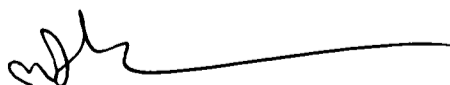
2. Brief facts of the case are that the applicant joined service on 2.9.63 as Civil School Master at Rajput Regiment Center, Fatehgarh, UP. Thereafter, he was



transferred to Defence Institute of Fire Research, Delhi as LDC on 1.3.66. He was promoted as UDC on 1.4.76. While working as UDC, he was given the duties of OS-II on 1.5.92 to 15.5.95 without any break. However while performing the duties of OS-II he was given the salary of UDC (Rs.1200-2040) only. He retired from service on 30.6.95 and his pension was calculated based on his salary in the grade of UDC. Prior to his retirement, he made representation on 15.5.95 to give him ad hoc promotion and payment as OS-II with other consequential benefits.

3. Applicant has further stated that the period of service rendered by him as Asst. Teacher in School of Dist. Farrukhabad, UP from 10.8.60 to 1.9.63 has not been counted for the purpose of pensionary benefits as per Pension Rules. Prior to this, he was also working as Clerk in Kaimganj Tehsil, UP in different spells during August, 1957 to December, 1958. Since he has not been given the benefit of service rendered by him in the State Government and has not been salary of OS-II for the aforesaid period, he has filed this OA seeking the above reliefs.

4. Respondents in their reply have stated that the applicant was not granted ad hoc promotion as OS-II as per DPC Rules. Being the senior most UDC he was asked to perform the duties of OS-II w.e.f. 1.5.92 till permanent arrangement was made by the competent authority. As regards the previous service rendered by him in the State Government from 10.8.60 to 1.9.63, the same has not been



agreed to by the audit authorities for counting it for pensionary benefits. As per CCS (Pension) Rules, 1972 (Rule 14) the service of a State Govt. servant shall qualify only in the following conditions:

(i) Those who having been retrenched from the service of Central/State Government secured on their own employment under State/Central Governments either with or without interruption between the date of retrenchment and date of new appointment;

(ii) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments through proper channel with proper permission of the administrative authority concerned.

The above conditions are not met by the applicant. Hence service rendered by him in State Govt. was not counted for pensionary benefits.

5. Heard the learned counsel for the parties and perused the records.

6. During the course of the arguments, the learned counsel for the applicant stated that the applicant was performing the duties of OS-II although he was not appointed through the recommendations of the DPC. According to him, the post of OS-II was permanent and he was holding the post for three years continuously and hence he should be paid the salary of the post of OS-II with consequential benefits and also revised pension. On the other hand, the learned counsel for the respondents stated that the applicant was neither appointed on ad hoc basis nor regularly promoted through DPC. He was only asked to look after the work of OS-II in addition to his own, being the senior most UDC and it was only a stop gap




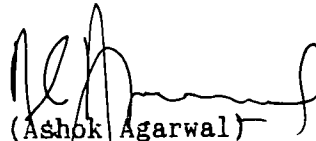
arrangement and hence he is not entitled for the salary of OS-II. As regards counting of service rendered by him in State Government, the same has not been agreed to by the audit authorities on the ground that no action was initiated to record the service rendered by him in the State Government in his Service Book.

7. We find that the applicant was not appointed either on ad hoc basis or through holding of DPC; it was only a stop gap arrangement till a regular incumbent was appointed to the post. No formal order was issued promoting him to the post of OS-II. He was asked to perform the duties of OS-II being the senior most UDC in addition to his own duties. Hence there is no question of payment of salary of the post of OS-II to him. As regards counting of past rendered by him in the state Govt., Rule 14(3) of Pension Rules provides that in the case of a Government servant belonging to a State Government, who is permanently transferred to a service or post to which these rules apply, the continuous service rendered under the State Government in an officiating or temporary capacity, if any, followed without interruption by substantive appointment, or the continuous service rendered under that Government in an officiating or temporary capacity, as the case may be, shall qualify. In this case, a perusal of the records show that the service rendered by the applicant in Central Government was in continuation of the service rendered by him in State Government. He is therefore entitled to count the service rendered in the State Government from 10.8.60 to 1.9.63 for the purpose of revised pension and other retirement benefits..



8. We accordingly allow this OA partly to the extent that the service by the applicant in the state government for the aforesaid period would be taken into account while calculating his pensionary benefits. Respondents are directed to revise applicant's pension taking into account the service rendered by him in the state Government. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

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