

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

R.A. NO.72/2005
M.A. NO.4415/2005
in
O.A. NO.1433/2004

This the 22nd day of February, 2006

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI A. K. BHATNAGAR, MEMBER (J)

Union of India & Ors.

... Applicants/
Respondents in OA

versus

S. B. Sharma

... Respondent/
Applicant in OA

ORDER (IN CIRCULATION)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

MA No.4415/2005 seeking condonation of delay in filing the present review application is allowed in view of the reasons stated on behalf of respondents.

2. Through Review Application No.72/2005 respondents in the OA have sought review of Tribunal's order dated 31.5.2005 whereby OA No.1433/2004 was allowed with the following directions:

"7. In result, O.A. is allowed. The impugned orders contained in Annexure nos. A-1, A-2, A-3 and A-4 are quashed and set-aside. The respondents are directed to consider the claim of the applicant for promotion under TBOP w.e.f. 16.10.2001 computing his services from 16.10.1985 when he joined as P.A. The respondents shall issue promotion order of the applicant accordingly and grant all consequential benefits to him within a period of three months from the date of communication of this order. However, the respondents shall be at liberty to take appropriate legal recourse in terms of applicable rules and instructions for recovery of dues, if any, upon issuing a show cause notice to the applicant and affording him a reasonable opportunity of defence. No costs."

2. In paragraph 5 of the aforesaid order the following observation was made:




"5. Neither party has been able to produce the memorandum dated 29.6.1987 whereby the applicant was regularized as P.A. Therefore, it cannot be said as to since when he was actually regularized as P.A. No instruction has been shown to us why the period from 16.10.1985 when the applicant joined as P.A. cannot be taken into cognizance for considering promotion under TBOP. As the memorandum dated 29.6.1987 has not been produced before us and admittedly, applicant had joined as P.A. w.e.f. 16.10.1985, he is entitled to consideration for granting promotion under TBOP after completing 16 years of service from 16.10.1985. In this manner, the applicant is deemed to have completed 16 years of service w.e.f. 16.10.2001."

3. It has been pointed out that the OA was allowed solely on the basis of non-production of memorandum dated 29.6.1987. It is stated that respondents have been making constant efforts to trace the same and have been able to lay hands on it only on 13.9.2005. The said memorandum dated 29.7.1987, according to respondents, demonstrates that applicant was regularised on the post of Postal Assistant (P.A.) from 29.6.1987 and assumed its charge on 1.9.1987. In this background, according to respondents, averment made on behalf of applicant that he had started working as P.A. on regular basis from 16.10.1985 turns out to be incorrect. If memorandum dated 29.6.1987 and charge report dated 1.9.1987 (Annexures 2 and 3) had been produced at the appropriate time before the Court, the result would have been different in OA No.1433/2004.

4. Now that respondents have produced the relevant documents, it is expedient and necessary in the interest of justice that Tribunal's order dated 31.5.2005 is recalled and OA No.1433/2004 is restored to its original number. Ordered accordingly in circulation. The case be listed for re-hearing before an appropriate Division Bench ^{to be by} constituted by the Hon'ble Vice-Chairman, Allahabad Bench.

(A. K. Bhatnagar)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)