

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**

O.A/350/1331/2020

Date of Order: 17.12.2020

Coram: Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Dr. D. Suresh Chand,  
Scientist B EOrthopetra Section, Zoological  
Survey of India, M Block, New Alipore,  
Kolkata – 700053 and residing at No. 9,  
Sen Garden Haltu, Kolkata – 700078, West Bengal.

..... Applicant.

-Versus-

1. The Secretary, Union Public Service Commission,  
Dholpur House, Shahjahan Road, New Delhi -110069.
2. The Director Zoological Survey of India,  
Block – M, New Alipore, Kolkata – 700053.

..... Respondents.

For The Applicant(s): Mr. N. Roy, counsel

For The Respondent(s): Mr. S. Paul, counsel

**ORDER (O R A L)**

Per: Dr. Ms. Nandita Chatterjee, Member (A):

The applicant has approached this Tribunal under Section 19 of the  
Administrative Tribunals Act, 1985, praying for the following relief:-

- "8.a) To issue direction upon the respondent to consider the case of the applicant's  
Old Pension Scheme according to DOPT circular on 17.02.2020 forthwith.
- b) To issue further direction upon the respondent according to circular No. 3 of  
2020 dated 24.02.2020, Old Pension Scheme may be considered in favour of the  
applicant forthwith.
- c) To issue further direction upon the respondent to consider the representation  
dated 03.03.2020 and 21.06.2020 regarding Old Pension Scheme forthwith.
- d) Any other order or further order or orders has learned Tribunal deem fit and  
proper.
- e) To produce Connected Departmental Record at the time of Hearing."

*hch*

2. Heard both Ld. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. According to ld. Counsel for the applicant, the applicant had applied for the post of Scientist B in response to advertisement issued by UPSC in July 2000. The result of such selection were finalised on 15.12.2003 but 11 appointments were kept pending on account of an subjudice matter. The applicant's appointment order was issued on 18.05.2005.

Ld. Counsel for the applicant would argue that as his appointment was delayed on account of the pending subjudice matter, he cannot be deprived of the benefits of the Old Pension Scheme as applicable to the appointees who joined their posts against vacancies occurring prior to 01.01.2004.

Ld. Counsel for the applicant would also draw attention to the O.M of DOPT dated 17.02.2020 on the basis of which the respondent authorities had issued the circular No. 03/2020 (Annexure A-9 to the O.A) on the subject matter of eligibility for inclusion in the Old Pension Scheme.

The applicant had thereafter applied on 03<sup>rd</sup> March, 2020 (Annexure A-10) requesting for benefits of the DOPT O.M dated 17.02.2020 and the Ld. counsel would cite decisions in WP(C) 6680/2017 in **Tanaka Ram and Ors vs U.O.I and Ors**, as well as that in WP (C) 2810/2016 in **Inspector Rajendra Singh and Ors vs UOI & Ors**, in which the para 18 reads as under:

*"xxxxxxx 18. In our view, basic terms and conditions of service, such as the right to perceive pension upon superannuation, as applicable at the time of notification of the posts, cannot later be altered to the prejudice of the incumbents to the post, after commencement of the selection process."*

Ld. Counsel for the applicant would, therefore, submit that suitable directions be issued to the respondent authorities to decide on the representation of the applicant in the light of the DOPT OM dated 17.02.2020 and the judicial decisions supra.

hch 2

4. Ld. Counsel for the respondents would not object to the disposal of the representation in accordance with law.

5. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, I would hereby direct the addressee authority or any other competent respondent authority to decide on the applicant's representation in the light of the DOPT OM Dated 17.02.2020 and the judicial ratio supra, and, in accordance with law, within a period of 16 weeks from the date of receipt of a copy of this order. The said authority should convey his decision in the form of a reasoned and speaking order to the applicant thereafter.

6. With these directions, the O.A. is disposed of. There will be no orders on costs.

(Nandita Chatterjee)  
Member (A)

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