

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 05.02.2008

O.A. No.684/2006

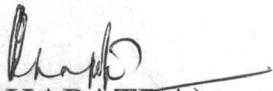
Baikuntha Nath Tarenia ... Applicant

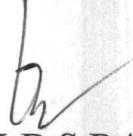
versus

Union of India & Ors. ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(C.R.MOHAPATRA)
MEMBER(A)


(DR.K.B.S.RAJAN)
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
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PRESENT:

THE HON'BLE DR.K.B.S.RAJAN, MEMBER(J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

In the Matter of

O.A. No. 684/2006

B.N.Tarenia ... Applicant

versus

Union of India & Ors. ... Respondents

(For Full details, see the enclosed cause title)

For Applicant: : M/s. P. K. Padhi, Counsel

For Respondents: Mr. S. Barik, ASC

ORDER

Per DR.K.B.S.RAJAN, MEMBER(J):

The applicant was appointed as LDC and joined in the Department of Agriculture on 22-11-1986. Later on he tendered his technical resignation from the post of LDC and joined on 8th December, 1989 in the S.B.C.O. At Jagatsinghpur Head Post Office under Respondent No. 4, which post was merged later on with that of Postal Assistant. He had thus, completed 16 years of service

in the grade of clerk on 21st November, 2002. Provision exists for Time Bound One-time Promotion (TBOP) in respect of those who had put in 16 years of regular service. While the claim of the applicant is that the period should reckon from his initial appointment in the grade in the Agriculture Ministry as he had served without break since then and as he had moved to the Postal Department in public interest, the department took a different view that the period for financial up-gradation under TBOP Scheme would be computed taking into account only the period of service rendered in the Postal Department and hence, he was entitled to the TBOP benefit 16 years calculated from 8-12-1989 i.e. from December, 2005. Annexure A-5 to A-7 refer. The issue, therefore, is whether the applicant is entitled to reckon his service from the initial date of his appointment in the Agriculture Department or should the period confine to the service in the Postal Department only.

2. The above issue is no longer *res-integra*. Explaining the position in regard to 'time-bound' promotions the Apex Court in the case of *Dwijen Chandra Sarkar v. Union of India, (1999) 2 SCC 119* held,

"Where there are a large number of employees in any department and where the employees are not likely to get their promotion in the near future because of their comparatively low position in the seniority list, the Government has found it necessary that in order to remove frustration, the employees

are to be given a higher grade in terms of emoluments while retaining them in the same category. This is what is generally known as the time-bound promotion. If that be the true purpose of a time-bound promotion which is meant to relieve frustration on account of stagnation, it cannot be said that the Government wanted to deprive the appellants who were brought into the P&T Department in public interest - of the benefit of a higher grade. The frustration on account of stagnation is a common factor not only of those already in the P&T Department but also of those who are administratively transferred by the Government from the Rehabilitation Department to the P&T Department. The Government while imposing an eligibility condition of 16 years' service in the grade for being entitled to time-bound promotion, is not intending to benefit only one section of employees in the category and deny it to another section of employees in the same category. The common factor for all these employees is that they have remained in the same grade for 16 years without promotions. The said period is a term of eligibility for obtaining a financial benefit of a higher grade.

13 . If the appellants are entitled to the time-bound promotion by counting the service prior to joining the P&T Department, the next question is whether treating them as eligible for time-bound promotion will conflict with the condition imposed in their transfer order, namely, that they will not count their service for seniority purposes in the P&T Department.

14 . The words 'except seniority' in the 1983 circular, in our view, mean that such a benefit of a higher grade given to the transferees will in no way affect the seniority of employees in the P&T Department when the turn of the P&T employees comes up for promotion to a higher category or post. The said words 'except

seniority' are intended to see that the said persons who have come from another Department on transfer do not upset the seniority in the transferee Department. Granting them higher grade under the Scheme for Time-bound Promotion does not, therefore, offend the condition imposed in the transfer order. We are, therefore, of the view that the appellants are entitled to the higher grade from the date on which they have completed 16 years and the said period is to be computed on the basis of their total service both in the Rehabilitation Department and the P&T Department.

3. The above was followed in the case of *Union of India vs V.N. Bhat* (2003) 8 SCC 714 as well as *Union of India vs M. Mathivanan* (2006) 6 SCC 57.

4. In view of the above, the O.A. is allowed and the impugned orders Annexure A-7 is quashed and set aside. It is declared that the applicant is entitled to the financial up-gradation from 22-11-2002 (i.e. on completion of 16 years of service from 22-11-1986) and Respondents are directed to accordingly modify their Annexure A-5 and 6 orders and re-fix the pay of the applicant accordingly and make available the arrears of pay and allowances arising there from. This order shall be complied with, within a period of three months from the date of communication of this order.

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(C.R. MOHAPATRA)
MEMBER(A)

DR. K. B. S. Rajan
(DR.K.B.S.RAJAN)
MEMBER(J)