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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.NO. 277 OF 2007
Cuttack, this the 23rd day of December, 2009

Shri Dinabandhu Prusty and three others Applicants
Vrs.
Union of India and others Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporter or not?
- 2) Whether it be sent to the P.B. , CAT, or not?


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM:

**HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND
HON'BLE MR. C.R.MOHAPATRA, ADMINISTRATIVE MEMBER**

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1. Shri Dinabandhu Prusty, aged about 51 years, son of Shri Subal Prusty, resident of Qrs.No. Type III/39, Survey of India Residential Colony, Nayapally, P.O. Regional Research Laboratory, Bhubaneswar 751013, District Khurda, State – Orissa.
2. Shri Bichitrananda Jena, aged about 53 years, son of late Bhagabat Jena, resident of Plot No. 3624, Palasuni, P.O. Rasulgarh, Bhubaneswar 751010, District Khurda, State Orissa.
3. Km. Annapurna Dei, aged about 51 years, daughter of late Dhuleshwar Sahoo, resident of Qrs.No. Type III/27, Survey of India Residential Colony, Nayapalli, P.O. Regional Research Laboratory, Bhubaneswar 751013, District Khurda, State-Orissa.
4. Smt. Sunanda Jena, aged about 58 years, wife of Shri Bichitrananda Jena, resident of Plot No. 3624, Palasuni, P.O. Rasulgarh, Bhubaneswar 751010, District Khurda, State Orissa
(all above personnel are employed as Draughtsman, Division I in Orissa Geo-Spatial Data Centre, Survey of India, Survey Bhawan, P.O. Regional Research Laboratory, Bhubaneswar 751013, District Khurda, State-Orissa)

.....Applicants

Advocates for applicant -

M/s K.C.Kanungo, S.Bhera &
S.Pattnaik

-versus-

1. Union of India, represented by the Secretary to Government of India, Ministry/Department of Science & Technology, Technology Bhawan, New Mehrauli Road, New Delhi 110 016.
2. The Surveyor General of India, Survey of India, Hathibarkala Estate, Dehra Dun 248001, State-Uttarakhand.



3. The Director, Orissa Geo-Spatial Data Centre, Survey of India, Survey Bhawan, 2nd Floor, P.O. Regional Research Laboratory, Bhubaneswar 751013, District Khurda, State-Orissa.....Respondents

Advocate for the Respondents - Mr.U.B.Mohapatra, Sr.CGSC.

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ORDER
JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Dinabandhu Prusty and three other applicants have approached this Tribunal for direction to Respondents to count the residency period (regular service) from the date of their entry grade, i.e., 1.11.1974 instead of 1.1.1982 (date of placement as Draughtsman, Grade II) for the purpose of granting benefits under the A.C.P. Scheme in terms of the orders at Annexure A/4. In this connection, they have also prayed for direction to the respondents to amend and/or modify the orders at Annexure A/5, appropriately, whereby and whereunder their residency period (regular service) from the entry grade has not been taken into account, with consequential benefits, viz., grant of second financial upgradation w.e.f. 9.8.1999 by placing them in the pay scale of Rs.6500-10500/- and financial arrears, etc.

2. According to the applicants, they were recruited as **Topographical Trainees**, Type 'B' (Draughtsman) [in short 'T.T.T. B (Draughtsman)'] as per the Recruitment Rules prescribed in that behalf and joined under the Respondents on 1.11.1974 in the consolidated pay of Rs.165/-, whereafter they were placed in the regular scale of Rs.110-180/- w.e.f. 1.1.1975. On successful

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completion of training, the applicants were classified and graded as Draughtsman, Grade V w.e.f. 1.1.1976 and were placed in the erstwhile pay scale of Rs.260-430/- . While the matter stood thus, Draughtsman, Gr.V having been abolished, as per the policy decision, merged with Draughtsman, Grade IV and consequently, the applicants were re-designated as Draughtsman, Grade IV w.e.f. 1.7.1977, being placed in the scale of Rs.260-430/- . It has been submitted that during the course of employment, the applicant appeared at the trade test for Draughtsman, qualified and were regarded as Draughtsman Grade III w.e.f. 1.1.1980 and thereafter, Draughtsman Grade II w.e.f. 1.1.1982 in the scale of Rs.330-480/- and Rs.425-600/- respectively. The applicants have further submitted that the pay scale of Rs.425-600/- in respect of Draughtsman, Grade II having been revised, they were placed in the revised scale of Rs.425-700/- w.e.f.1.1.1985 and subsequently, on recommendation of the 4th and 5th C.P.C., they were inducted in the scale of Rs.1400-2300/- and Rs.5000-8000/- w.e.f.1.1.1986 and 1.1.1996 respectively. At present, the applicants having been promoted to the grade of Draughtsman, Division I as a regular measure w.e.f. 24.12.2004, are in receipt of scale of pay of Rs.5500-9000/- and continuing as such. In the above backdrop, it is their standpoint that their entry grade as Draughtsman-V w.e.f. 1.11.1974, when they were in receipt of consolidated pay at Rs.165/-, should be taken into account as regular service for the purpose of granting ACP instead of 1.1.1982, the date of placement of the applicants as Draughtsman, Grade II.



3. Respondent-Department, in pursuance of notice issued by this Tribunal, have filed their counter opposing the prayer of the applicants. It has been submitted that regular service for the purpose of ACP Scheme has to be interpreted to mean the eligibility service counted for regular promotion in terms of relevant recruitment/service rules. It is stated that the residency period (regular service) for grant of benefits under the ACP Scheme would count from the grade in which an employee was appointed as a direct recruit. The Respondents have submitted that as per circular order of Surveyor General of India, training before classification of T.T.T.B. into Division II, Grade II is not counted as eligibility service for regular promotion or seniority in Division II Grade. In other words, what has been submitted by the Respondents is that the induction training having not been counted towards eligibility for regular promotion, the same could not be taken into account for financial upgradation under the ACP Scheme. The Respondents have submitted further that regular service countable for benefits under the ACP Scheme is that period of service which is counted for regular promotion under the Recruitment Rules/Service Rules.

4. We have heard Shri K.C.Kanungo, the learned counsel for the applicants and Shri U.B.Mohapatra, learned Senior Standing Counsel for the Respondents and perused the materials on record. We have also gone through the rejoinder to the counter filed by the applicants. Having regard to the



contentions of both the learned counsel, the point in issue to be adjudicated by this Tribunal is as under:

(i) What is the crucial date for reckoning regular service or residency period for the purpose of granting ACP in line with regular promotion? In other words, whether the induction training period will be taken into account for counting the regular service or residency period for promotion or ACP, as the case may be?

5. Since the point in issue centres round the circulars, it is not necessary to refer to the facts and circumstances of the case any further. In this connection, we would like to at first deal with the circular order (in short 'C.O.') No. 435 (Administration) dated 1st August 1950 (corrected up to 31st March 1963) on the subject: "Rules relating to recruitment and promotion of Topographical and Map Reproduction Personnel in Division II of Class III Service of the Survey of India". Clause 2 of the C.O.No.435 deals with recruitment and promotion of Topographical and Map Reproduction personnel in Division II in the Class III Service. It is stated thereunder that the establishment on which these personnel are borne are unfixed and under the control of the Surveyor General subject only to budget limitations. Clause 3 dealing with trades and grading reads as under:

"3. Trades and grading.- After an initial period as a trainee every individual covered by these rules will have a trade on which he will be graded for pay. If he is qualified in more than one trade, he will be graded on that which is most favourable to him."

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Clause 4 dealing with Trades reads as under:

"4. Trades.-All personnel covered by these rules, will on classification, be allotted trades and graded according to their qualifications and aptitudes.."

Clause 6 reads as follows:

"6. Designations.-

- (i) Normally trainees will be engaged under the designation Class III-Topographical Trainees Type 'B' on a fixed pay of Rs.100 p.m. during the training period.
- (ii) Men with special technical qualifications may be appointed to any suitable post in a grade. Each case will be decided on its merits and requires the sanction of the Surveyor General. Although no age limit is laid down for this category, men over 35 years will only be recruited in exceptional cases.
- (iii) After entertainment, trainees will be borne on the temporary establishment and will be governed by the Central Civil Services (Temporary Service) Rules until such time as they are transferred to the permanent establishment. They will be required to sign a Security Bond as in the Annexure 'B' and will not be allowed to resign except as laid down in the Security Bond."

Part V deals with rules relating to both Topographical and Map Reproduction

staff. Clause 12 reads as under:

"12. (i) Grade promotion.-On first classification a man will normally be placed in the lowest grade applicable to his trade but exceptionally qualified men may be classified in a higher grade. He will receive grade promotion from time to time on attainment of the standards required for higher grades. So far as possible all candidates for promotion to higher grades will be called upon to pass a trade test though successful passing of a trade test will not necessarily entitle a man to promotion to the higher grade if his general conduct and work have not been satisfactory.



Clause 14 dealing with transfer to permanent establishment reads as under:

"14. Transfer to permanent establishment.-Personnel will normally be eligible for transfer to permanent establishment after the minimum period of years of service depending on their grades as follows:-

Grade II 3 years
Grade III 4 years
Grade IV 5 years
Grade V 6 years

The period will include quasi-permanent service and service as a trainee.

Recommendations for transfer of personnel to the permanent establishment will be based on the recommendations of a Departmental Promotion Committee to be constituted under the existing instructions."

5. Perusal of the above quoted rules makes it clear that the applicants were recruited as trainees, though they had been placed in grade pay scales and granted re-gradation promotions from time to time carrying higher pay scales subject to qualifying the trade tests and aptitude test. Such re-gradation promotion, as it reveals from the above quoted rules, is subject to standards required for higher grades provided general conduct and work are satisfactory. It also further reveals that grade promotion is not even in orderly manner. In other words, exceptionally qualified persons could be inducted or classified on a higher grade, without being inducted in lower grade. It is also very clear from the above quoted rules that like the re-gradation promotion in ascending order, there is provision of reversion in certain contingencies, viz., the required standard not being maintained, etc. Apart from the above, the relevant rules lay

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down transfer to permanent establishment after attaining eligibility period as prescribed for each grade based on the recommendation of the Departmental Promotion Committee which would include quasi-permanent service or service as a trainee. In this connection, the relevant provisions in Clause 8 – Classification cannot be brushed aside. It is laid down therein that a trainee may be trade-tested wherever necessary and classified for the purpose of his trade and grade. He will be transferred to quasi-permanent establishment only after completion of 3 years of service if his work and conduct are found satisfactory. A trainee who is not transferred to the quasi-permanent service after 3 years will be retained for a further period of two years. If at the end of 5 years of service, he is not considered fit for classification or quasi-permanency, he will normally be discharged unless his services can be usefully employed on a purely temporary basis. All these ingredients would show that the Grades from TTT 'B' (Draughtsman) up to Draughtsman, Grade III are all at fluid and flexible stage. It is also not in dispute that the establishment on which they were working as trainees was unfixed subject to budget limitations. It is also not in dispute that their re-gradation up to the point of reaching Grade II is an inhouse training on attainment of the standards required for such grade. It is to be further noted that for re-gradation or regradation promotion, no vacancy is required. It completely depends upon the efficiency and ability of the person concerned. Viewed from this, the joining of the applicants as Draughtsman-V up to Draughtsman Grade II in Division II was all along as trainees and not as

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appointees against any regular posts. The applicants have themselves submitted that they were recruited as Topographical Trainee, Type B (Draughtsman) and were on receipt of Rs.165/- as consolidated pay. The recruitment rules nowhere lay down that the manner in which the applicants have been drafted as Draughtsman-V was an appointment made against any regular post in the regular establishment. Instead, the Recruitment Rules lay down that establishment on which they were working was unfixed and subject to budget limitations. If according to the applicants their residency period or regular service for the purpose of ACP should be counted w.e.f.1.1.1974, at the same time the grade promotions which they have obtained w.e.f. 1.1.1980 to Grade III in the scale of Rs.330-480/-and w.e.f. 1.1.1982 to Grade II in the scale of Rs.425-600/-, have to be construed as their promotions within the scope and meaning of ACP Scheme. This being the situation, we have no hesitation to hold that training before classification of TTT 'B' into Division II, Grade II cannot be taken into account as eligibility service for regular promotion, failing which grant of A.C.P. In this context, it is to be noted that regular service means – appointment against a regular/sanctioned post according to need of the hierarchy and in accordance with the recruitment rules governing the field. It is not established by the applicants by showing substantial materials that they have been appointed against regular post of TTT 'B' (Draughtsman) in accordance with the Recruitment Rules at any point of time. The applicants have not been able to produce any material or document based on which their claim for



counting residency period when they joined as TTT 'B' (Draughtsman) could be granted for the purpose of ACP in line with promotion nor the rejoinder filed precisely replies to the averments in the counter, as mentioned above. Having regard to the above, the point in issue is answered in the negative. We, therefore, hold that the induction training period will not be taken into account for counting the regular service or residency period for promotion or ACP, as the case may be and accordingly, the Respondents have rightly reckoned the regular service of the applicants w.e.f. 1.1.1982 when they were placed as Draughtsman, Grade II.

6. In the result, the O.A. fails. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(K.THANKAPPAN)
JUDICIAL MEMBER