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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No. 568 of 2010

Srikanta Kumar Sarangi.... Applicant

Vs

Union of India & Others. Respondents

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Order dated -26 -07-2011.

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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Applicant's contention is that though he was medically decategorized in 2002 he was deprived of being given an alternative post due to delay in the meeting of the Screening committee and his absorption in regular post of JR. Clerk also got delayed. This resulted in promotion of his juniors like Smt. D.V.S.S.Kumari and Smt.R.Laxmi who have been absorbed in the Ministerial cadre on the cut off date of 01-11-2003 and he continued in a supernumerary post as on 01-11-2003. This put him in a disadvantageous position. To buttress his claim, Ld. Counsel appearing on his behalf draws our attention to the penultimate para of Annexure-A/12 which reads as under:

"The delay caused in conducting the test by the Screening Committee to adjudge the suitability of Sri Sarangi and non-sparing of Sri Sarangi on the 1st

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Screening Date is due to administrative reason which need not be taken into consideration."

Hence his prayer is to quash the order in Annexure-12 dated 23-07-2010 and to direct the Respondents to treat the applicant as a regular cadre employee from 25.09.2002 to 18.05.2004 and to calculate the seniority of the applicant from the date of his appointment i.e. 23.03.1992 with grant of other consequential promotional and financial benefits.

3. Respondents' contention is that the applicant was initially appointed as a Constable in RPF on 23.3.1992. He was declared medically decategorized on 25-09-2002. In terms of the Rules in case of disabled medically de-categorized staff, if posts are not available; until it is made available, they should be allowed to continue by creating supernumerary post. Accordingly applicant was allowed to continue in a supernumerary post till a suitable post was available and he was found suitable for the said post. On being declared fit for Jr. Clerk by the Screening Committee he was posted to Operating Department vide letter dated 19.12.2003. He refused to accept the job and approached this Tribunal in OA No. 143 of 2004 to absorb him in parent department. In compliance of the order of this Tribunal dated 08.04.2004, the applicant was absorbed as Jr. Clerk in Security

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Department. Consequently, he was posted as Jr. Clerk vide order dated 18.5.2004 and came over to ministerial cadre and was allowed seniority from the date of his appointment. Thereafter he approached this Tribunal in OA No. 96 of 2010 praying for direction to the Respondents to give him seniority with retrospective effect prior to 1.11.2003 and consequent promotional benefit. As per the order of this Tribunal dated 19.3.2010 the representation preferred by the applicant was considered and a reply was communicated to him in Annexure-A/12. Further contention of the Respondents is that the applicant was absorbed as junior clerk only on 14.5.2004 and as such he is entitled to count his seniority only from the date when he was borne in the cadre. Hence, the Applicant is not entitled to the relief claimed in this OA.

4. Learned Counsel appearing for both sides have reiterated the stand taken in their respective pleadings. Having heard them at length, perused the materials placed on record. Applicant's prayer to direct the Respondents to count his seniority in the cadre of Jr. Clerk with effect from the date when he was declared medically decategorized as according to him the delay caused in holding the screening was not attributable to him. But we are unable to accept this contention of the applicant as it is not

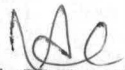


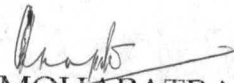
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supported by any Rules. Rule clearly provides that in case of disabled medically de-categorized staff, if posts are not available; until it is made available, the disabled persons should be allowed to continue by creating supernumerary post. Rules and law are clear that one can claim seniority from the date of his joining in the post/cadre. Hence the prayer of the applicant to treat him as Jr. Clerk w.e.f. 25.9.2002 is rejected. But we find that direction was issued by the competent authority in letter under Annexure-A/7 dated 6.1.2004 to absorb the applicant in the vacant post of Jr. Clerk for which he was found medically fit whereas the applicant was absorbed in the grade of Jr. Clerk only in order under Annexure-8 dated 14.5.2004. No reason has been assigned for the delay in regularizing in the grade of Jr. Clerk prior to 14.5.2004. As such antedating his date of absorption to 6.1.2004 is warranted. Hence Respondents are hereby directed to antedate the date of absorption in the grade of Jr. Clerk of the applicant to 6.1.2004 and in that event he would be entitled to all consequential service and financial benefits, if any, which would accrue in view of his change of date of absorption. The Respondents should comply with the order within a period of sixty days from the date of receipt of copy of this order.

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5. In the result, this OA is partly allowed to the extent stated above. There shall be no order as to costs.


(A.K. PATNAIK)
Member (Judl.)


(C.R. MOHAPATRA)
Member (Admn.)

