

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACKOA No. 890 of 2010
Cuttack, this the 8th day of May, 2013CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

Somanath Sahoo,
Aged about 47 years,
Son of Bhagabat Sahoo,
Working as a Stenographer,
Regional Leprosy Training & Research Institute,
At/Po.Aska,
Dist.Ganjam.

....Applicant

(Advocate(s): Mr.P.K.Padhi)

VERSUS

Union of India Represented through -

1. The Secretary,
Department of Health & Family Welfare,
Nirman Bhawan,
New Delhi-110 011.
2. Director General of Health Services,
(Leprosy Division),
Nirman Bhawan,
New Delhi-110 011.

V. A. -

12

3. Director,
Regional Leprosy Training & Research Institute,
At/Po-Aska,
Dist.Ganjam,
PIN-761 110.

.... Respondents

(Advocate(s) – Mr. B.K.Mohapatra)

O R D E R

A.K.PATNAIK, MEMBER (J):

This Original Application has been filed by the Applicant (Somnath Sahoo), a Stenographer in the Regional Leprosy Training and Research Institute, Ganjam praying for direction to the Respondents to upgrade his post from Stenographer Grade III to II w.e.f. 30.04.1993 as per the order of the Government of India after quashing the communication dated 14.9.2009 at Annexure-A/6 and to pay him the consequential service and financial benefits retrospectively.

2. Respondent- Department have filed their counter opposing the prayer of the Applicant to which the Applicant has also filed rejoinder.

3. We have heard Mr.P.K.Padhi, Learned Counsel for the Applicant and Mr.B.K.Mohapatra, Learned Additional CGSC

VAC

13

appearing for the Respondent-Department and perused the material placed on record.

4. In support of the relief claimed in this OA, Learned Counsel appearing for the Applicant (Mr.P.K.Padhi), drew our attention to the order dated 25.6.1991 issued by the Government of India, Department of Personnel and Training, New Delhi which was circulated vide OM dated 6th September, 1991 at Annexure-A/2 and submitted that despite repeated representations neither his post has been up graded nor any reply has been communicated to him albeit based on the said order at Annexure-A/2, similarly situated persons working at Regional Office of Health and Family Welfare, Bhubaneswar got the benefit of up gradation retrospectively. Hence he has submitted that since there was discrimination between similarly situated employees, he is entitled to the relief as claimed by him in this Original Application.

5. On the other hand, Mr.B.K.Mohapatra, learned Additional CGSC appearing for the Respondents vehemently objected to the contentions raised by the Applicant and contended that Respondent No.2 made some queries about the up gradation of post of Stenographer Gr. III to Gr.II in respect of RLTRI Aska. The Institution has been sanctioned 67 numbers of posts out of which five posts

VAC

were abolished on the recommendation of Internal Work Study Unit in the year 2001 due to decreasing of the work load of the Institution and hence, at present the Institution is functioning with only 45 nos. of existing staff members including two Group A Officers and 22 numbers of posts are lying vacant. The post of Director, RLTRI Aska which is in public Health Specialist Grade I very often remain^{ed} vacant since 2001 and one of the Gr.A officer is continuing to discharge the duties and responsibilities as i/c Director of RLTRI Aska. Due to less work load the up gradation of Stenographer Gr.III to Gr.II at RLTRI Aska was found not feasible. Further contention of Mr.Mohapatra is that the Inspection Team of Internal Work Study Unit had inspected the institution in the year 2001 and assessed the work performance of all individual post/seat of the Unit and submitted their report to the concerned authority for abolition and creation of certain posts. The work study unit has not recommended regarding the up gradation of the post of Stenographer Gr.III to Gr.II. However, it was contended by him that in the meantime Government of India have introduced ACP/MACP scheme for the employees facing stagnation and hardship due to lack of promotional avenues in service career. In accordance with the said scheme two financial up gradations^s have been extended to the applicant in absence of any regular promotion

15

to the isolated post of Stenographer of RLTRI Aska. Therefore, the claim of the applicant for up gradation of his post cannot be granted. Accordingly, Mr.Mohapatra, learned Additional CGSC appearing for the Respondents has prayed for dismissal of this OA.

6. We have gone through the report of Work Measurement Study of Regional Leprosy Training and Research Institute (RLTRI), Aska, Odisha submitted by the Senior Analyst (WS) to the Director, Regional Leprosy Training and Research Institute, Aska, Ganjam vide letter dated 16th April, 2001 copy of which has been placed at Annexure-R/7 to the counter in which, we find no whisper with regard to the functioning of the Stenographer or up-gradation of the post of Stenographer Gr.III to Gr.II. In this regard the order of the Government of India placed at Annexure-A/2 is very clear and leaves no room of doubt. The Respondents have also not denied the stand specifically taken by the Applicant that the post of Stenographer Gr.III in Regional Office at Bhubaneswar (under the same Ministry) has been up graded ^{to} Gr.II and benefit of up gradation has been extended to the persons holding the said post. We do not find any justification on the stand of the Respondents that since in the meantime, as per the ACP/MACP scheme two financial up gradations have been granted to the applicant for which the present claim of the

VAC

applicant does not survive because obviously the claim for up gradation of post has nothing to do with regard to grant of financial up gradation under ACP/MACP scheme. Similarly, the post of Director, RLTRI Aska very often remains vacant cannot be a ground to deny the benefit of the Government of India order under Annexure-A/2. Extension of benefit of an order issued by the Government, in a pick and choose manner or selectively, cannot be accepted in the eyes of law. Similarly, discrimination between similarly situated persons is not permissible in law. The Applicant was intimated in letter dated 14.9.2009 (Annexure-A/6) that as 6th CPC was in progress hence the grant of the benefit of up gradation was not considered. But the action in this regard after the 6th CPC's recommendation is not stated in the counter filed by the Respondents. In view of the above, we cannot but to hold that the Applicant is entitled to the benefit of the order issued by the Government of India based on which benefits were granted to the stenographers working in the office of the Regional Office of Health and Family Welfare, Bhubaneswar under the same Ministry. For the discussions made above, the order at Annexure-A/6 dated 14th September, 2009 is hereby quashed. The Respondents are hereby directed to reconsider the up gradation of the post of Stenographer Gr.III to II w.e.f. 30.04.1993 as per the order at

16

Annexure-A/2 and in the light of the up gradation made in so far as persons working in the same Ministry i.e. Regional Office of Health and Family Welfare, Bhubaneswar within a period of 60(sixty) days from the date of receipt of copy of this order and communicate the same to the Applicant.

7. In the result this OA stands allowed to the extent indicated above. There shall be no order as to costs.

R.C.Misra
(R.C.MISRA)
Member(Admn.)

A.K.Patnaik
(A.K.PATNAIK)
Member (Judi.)