

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.40 OF 2009

Cuttack this the 14th day of March, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPTRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
Banabihari Khatua...Applicant
-VERSUS-
Union of India & ors. Respondents

ORDER

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER:

1. Heard Ms.Chitra Padhi, learned counsel for the applicant and Shri S.Barik, learned Addl.Standing Counsel appearing for the Respondent-Department and perused the materials on record.
2. The undisputed facts of the case are that the applicant was appointed as Staff Car Driver with effect from 01.06.1977 purely on temporary and adhoc basis on the recommendations made by the Selection Committee. His grievance is that he should have been regularized in service with effect from 01.06.1977, i.e., the date of his initial appointment on temporary or adhoc basis, as the case may be. According to applicant, had his service been regularized with effect from 1.6.1977, he would have been entitled to financial upgradations under the ACP Scheme. In this connection, the applicant has brought to our notice Annexure-A/2 dated 18.11.1998 issued by the Ministry of Food & Consumer Affairs, Government of India addressed to Respondent No.2, which reads as under:

"Sub: Regularisation of Services of Shri B.B.Khatua
against the post of Driver in the RRSL,
Bhubaneswar.

Sir,

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I am directed to refer to your letter No.RRSL-B-1-428 dated 21.5.1998 on the subject mentioned above and to say that Shri B.B.Khatua has been appointed on ad hoc basis as Staff Car Driver w.e.f. 01.06.77 after character verification and proper medical examination and he fulfils the educational qualification prescribed in the notified recruitment rules. On the date of his initial appointment, i.e., as on 01.06.1977 his age was 21 years, i.e., within the age limit prescribed in the Recruitment Rules.

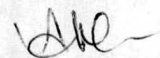
In these circumstances, there is no necessity of granting age relaxation of his case as no fresh D.P.C. is required in this case. You are, therefore, advised to regularize the services of Shri Khatua w.e.f. 01.06.1977.

Sd/-

(S.N.Nayak)

Under Secretary to Govt. of India"

3. The Respondents have not stated anything as to what prevented them from carrying out the instructions contained in Annexure-A/2(supra) for regularizing the service of the applicant with effect from 1.6.1977.
4. In the conspectus of the above facts, we have no hesitation to hold that only due to callous attitude of the Respondents the applicant could not be regularized in service with effect from 1.6.1977.
5. Accordingly, we direct the Respondents to consider regularization of the applicant as Staff Car Driver with effect from 1.6.1977 based on which the consequential service benefits, viz., promotion and/or ACP be also extended to the applicant.
6. The above exercise shall be completed within a period of 120 days from the date of receipt of this order.
7. The O.A. is allowed to the extent indicated above. No costs.


(A.K.PATNAIK)
JUDICIAL MEMBER


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

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