

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 746 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Harish Chandra Roy, s/o Late Sahadeb Roy,
aged about 57 years, working for gain as
Vice-Principal, F.B.P. H.S. School, P.O.
Farakka Barrage, Dist. Murshidabad, at
present residing at Qrs. No. A.23/II, P.O.
Farakka Barrage, Murshidabad-742212.

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Applicant

-Vs-

1. Union of India, service through the
Secretary, Govt. of India, Ministry of
Water Resources, Shram Shakti Bhavan,
New Delhi ;

2. General Manager, Farakka Barrage Pro-
ject, P.O. Farakka Barrage, Murshidabad.

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Respondents

For applicant : Mr. B.C. Sinha, counsel

For respondents : Ms. U. Sanyal, counsel

Heard on : 12.8.1997

Order on : 29.8.1997

1-9-1997

O R D E R

A.K. Chatterjee, VC

Relevant facts for consideration and disposal of this case are that on 30.12.80, the petitioner, who was then an Assistant Headmaster was appointed to the post of Vice-Principal of Farakka Barrage Project H.S. School on an adhoc basis carrying a scale of pay of Rs.650-1200/-, which was revised to Rs.2000-3500/- w.e.f. 1.1.86. He was promoted to the post of Vice Principal w.e.f. 13.7.89 in the same scale. He contends that under the Central Civil Services(Revision of Pay) Amendment Rules, 1988, he is entitled to get the senior scale of Rs.2200-4000/- after putting in 12 years of

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service in the grade i.e. w.e.f. 30.12.82 as on this date he had completed 12 years of service in the grade of Vice Principal, which, however, had been denied to him inspite of repeated representations. Hence, this application has been filed for a direction upon the respondents to extend the benefit of senior scale of pay to the petitioner w.e.f. 30.12.92 with all consequential financial benefits.

2. The respondents have filed a reply, substance of which is that the petitioner held the post of Vice Principal till 13.7.89 on an adhoc basis and senior scale is admissible only on completion of 12 years of regular service in the grade.

3. We have heard the ¹d. Counsel for the parties and perused the records before us.

4. It is true that the initial order of appointment of the petitioner as Vice Principal was on an adhoc basis w.e.f. 30.12.80 and it provided that such appointment, which was purely a local departmental arrangement would not confer any right for regular appointment, confirmation, seniority etc., but neither the CCS(RP) Rules nor a ^{the} clarification issued by the Ministry of Water Resources dt.5.9.88 stated that 12 years of regular service in the basic scale of the cadre was required to become eligible for admission to the senior scale. However, the respondents have pointed out that the same Ministry in its letter dt.20.7.94 had clarified that 12 years of regular service in the scale Rs.2000-3500/- was required for grant of the senior scale of Rs.2200-4000/-. This letter has been challenged by the petitioner in the instant application and he has cited the instance of one Sri G.P. Sinha Roy, a Teacher in-charge of the same school, a post analogous to the post of Vice Principal. According to the petitioner, Sri Sinha Roy was appointed as a Teacher in-charge on an adhoc basis on 16.7.79 and on the recommendation of the DPC, he was promoted as such w.e.f. 13.7.89, but he was granted

senior scale on expiry of 12 years from the date of appointment on adhoc basis and thus, the service rendered on adhoc basis was counted in his case for granting the senior scale. In answer to this contention, it is stated by the respondents that Sri Sinha Roy joined as Teacher in-Charge on 20.7.71 under non-gazetted establishment, which was upgraded to gazetted - Group-B post w.e.f. 16.7.79 and appointed on a regular basis with effect from the same date and thus rightly allotted the senior scale on the expiry of 12 years from this date. A letter by the Ministry dated 11.1.89 has been produced on behalf of the respondents, which no doubt indicates that Sri Sinha Roy was appointed on a regular basis w.e.f. 16.7.79 in terms of an earlier letter of the Ministry dt.10.11.81. Unfortunately, the letter dt.10.11.81 has been withheld without any explanation whatsoever. On the other hand, the petitioner has produced Office Memo. dt.28.7.89 by the General Manager of Farakka Barrage Project, Annexure A6 to the application indicating that on the recommendation of the D.P.C., Sri Sinha Roy, a Teacher in-charge on adhoc basis was promoted to the same post w.e.f. 13.7.89 and he would be on probation for two years from such date. If really Sri Sinha Roy was already regularised as Teacher in-charge w.e.f. 16.7.79, there could be no question of promoting him to the same post on the recommendation of DPC w.e.f. 13.7.89 or to put him on probation for a period of two years from this date. The respondents in their reply have stated that it was not relevant without clarifying, however, why it should be irrelevant. The suggestion probably is that it was not relevant because of the Ministry's letter dt.10.11.81 referred to above. It is difficult to accept ^{such} this contention, if any, because if really the statement in the office memorandum dt.28.7.89 that Sri Sinha Roy on adhoc basis was promoted w.e.f. 13.7.89 from which date he would

be on probation for two years, was irrelevant or an error, then the Ministry should have at once reacted as a copy of the office memo. was apparently endorsed to the Ministry, which was not challenged on behalf of the respondents. Thus, the Ministry had full knowledge of the Office Memorandum stating that Sri Sinha Roy was promoted w.e.f. 13.7.89 and if the office memo. was irrelevant or erroneous, the Ministry would at once react as the respondents never questioned that a copy was endorsed to the Ministry. It bears repetition to state that the Ministry's letter dt.10.11.81 has been withheld for reasons wholly obscure.

5. Therefore, there is no option but to hold that despite the Ministry's impugned letter dated 20.11.94, since the service rendered by Sri Sinha Roy on an adhoc basis was counted as qualifying for granting the senior scale, to deny the same to the petitioner would amount to arbitrary discrimination.

6. The O.A. is, therefore, disposed of with the order that the service rendered by the petitioner from 31.12.80 shall be counted for granting the senior scale of pay of Rs.2200-4000/- to him and the respondents shall pass appropriate order in this regard within 8 weeks from the date of communication of this order subject to fulfilment of other conditions of eligibility, if any, and consequential monetary benefit shall be released within four weeks thereafter. All orders to the contrary stand quashed to the extent of repugnancy.

7. No order is made as to costs.

M. S. Mukherjee
17/9/1997
(M. S. Mukherjee)
Member (A)

A. K. Chatterjee
A. K. Chatterjee
Vice-Chairman