

In the Central Administrative Tribunal
Calcutta Bench

OA 1192/96

Present : Hon'ble Mr.S. Biswas, Member(A)
Hon'ble Mr.N. Prusty, Member(J)

Radheshyam Mridha, S/o Tarapada Mridha, Village and P.O. Banipur (Near B.T. College), Dist.24 Parganas (North), working in the ZSI, Government of India, M Block New Alipore, Calcutta-700 053

..Applicant

-Vs-

- 1) Union of India, service through the Secretary to the Government of India, Ministry of Environment, Forest and Wild Life, Department of Environment, C.G.O. Complex, Lodi Road, New Delhi-11
- 2) The Director, ZSI, M Block, New Alipore, Calcutta-53
- 3) The Sr. Administrative Officer, ZSI, M Block, New Alipore, Calcutta-53
- 4) Dr.P.K. Maity, Scientist, S.E., Zoological Survey of India, M Block, New Alipore, Calcutta-53

For the applicant : Dr.D.C. Bhattacharjee, Counsel

For the respondents : Mr.B. Mukherjee, Counsel

Date of Order : 15/12/93

ORDER

Mr.S. Biswas, Member(A)

By this OA the applicant has sought quashment of memo of the respondent authorities dated 23-3-92 and further direction for disposal of the prayer as contained in Annexure 'B' to the OA dated 1-9-92 and consequent regularisation of fixation of pay.

2. In Annexure 'B' dated 1-9-92 the applicant's representation contains the following prayer, which was made before Director, ZSI (Res.2).

i) That as Technical Asstt. in Ethno-Biological Project since 20-2-86 till his last pay was Rs1480/-. His colleague one S.A. Khan who was a Motor Driver of the said project, but subsequently joined as Motor Driver on regular basis and his pay was revised and fixed at Rs1130/- on 1-9-90.

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3. In other words the applicant's claim is for regularisation with effect from 20-2-86 when he was statedly first engaged as a Tech. Asstt. in the Ethno-Biological Project continuously till his appointment as Junior Zoological Asstt. on 5-6-91 when he joined as such directly. He has cited the case of one B.A. Khan, Motor Driver, whose pay was regularised vide order 204/90 dated 11-7-90 cancelling order 210/90 dated 30-7-90 and fixation benefit on reappointment on 10-12-79 was given w.e.f. 1-9-77 i.e. the date of original appointment in the M.S.O Building, Nizam Palace of ZSI.

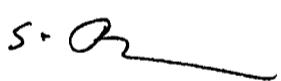
4. Heard both the rival counsel & went through the written submissions.

5. The application has been opposed by written reply of the respondent authorities. It is admitted that the applicant joined as a Tech. Asstt. on 20-2-86 in the Ethno-Biological Project which continued upto 25-4-88 when the pay of the applicant was Rs1480/-. After a gap, as there was no project work, he was directly appointed on 5-6-91 as Junior Zoological Asstt. in ZSI in the scale of Rs1320-2040 as a fresh direct recruit. The respondent authorities categorically denied that there was any such Driver as Khan in the said project as per records. The respondent have accordingly rejected his representation on facts vide the impugned memo dated 21-3-92. It is further clarified in reply that the applicant's project engagement as Tech. Asstt. ended with the project on 25-4-88. After 3 years he was given a direct appointment to the post of Junior Zoological Asstt. in an altogether better and different scale and post (Rs1320-2040). This recruitment was through Staff Selection Commission. Hence, for this fresh and direct appointment to a different post, he is not eligible to count his project job period from 20-2-86 to 25-4-88.

6. We have carefully considered the rival view points on the matter. The applicant has claimed that though he had worked in a project as a Tech. Asstt. for a period from 20-2-86

to 25-4-88, it was an intermittent engagement which ended ^{with} the project work. The applicant took the SSC examination as per a different Recruitment Rules and qualified for direct recruitment as Junior Zoological Asstt. for which he competed and qualified. He got the direct appointment on 5-6-91 which is after 3 years of his retirement from the project. The period he worked as a casual project employee, in our considered view, is not regular appointment to be added to regular job as he secured through SSC examination 3 years afterwards on 5-6-91. Nor these two can be treated as continuous. The case of S.A. Khan has been factually denied to be applicable - as no such person worked in the project where the applicant worked. Besides, we are not able to appreciate in the Order 214/90 how a later dated order dated 30-7-90 can be cancelled by an earlier dated order 11-7-90. In other words, an earlier order dated 11-7-90 cannot replace a later dated order dated 30-7-90. In view of foregoing we find no merits in the OA. Nor, we find any justification to interfere with the memo of rejection dated 21-3-92. The OA is accordingly dismissed. No costs.


Member (J)


Member (A)