

(13) 11/3

O.A. No. 24/2009 & 36/2009

Jodhpur this the 8th April, 2013

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

1. DR. BHAGWAN RAM S/O SHRI DAULAT RAM, BY CASTE JATIYA AGE ABOUT 47 YEARS, R/O BERA WALA BAAS, BHADWASIYA POST, K.U.M.M. ROAD, JODHPUR – 342007. WORKING AS POSTAL ASSISTANT IN THE OFFICE OF THE SENIOR SUPERINTENDENT OF POST OFFICES, HEAD POST OFFICE BUILDING, NEAR RLY. RESERVATION OFFICE, JODHPUR.

Applicant in O.A. No. 24/2009

2. PREM PRAKASH PUROHIT S/O SHRI GOPALLALJI PUROHIT, AGE ABOUT 48 YEARS, BY CASTE BRAHMIN, R/O HOUSE NO. 9/411, CHOPASANI HOUSING BOARD, JODHPUR. WORKING AS POSTAL ASSISTANT IN THE OFFICE OF SENIOR POST MASTER, HEAD POST OFFICE BUILDING, NEAR RLY. RESERVATION OFFICE JODHPUR.

Applicant in O.A. No. 36/2009

(Through Adv. Mr Rakesh Sinha)



Versus

1. UNION OF INDIA THROUGH THE SECRETARY, DEPARTMENT OF POSTS, MINISTRY OF COMMUNICATION, DAK BHAWAN, NEW DELHI.
2. THE POST MASTER GENERAL, RAJASTHAN, WESTERN REGION, NEAR U.I.T. CIRCLE OPP. RLY HOSPITAL, JODHPUR
3. THE SENIOR SUPERINTENDENT OF POST OFFICES, HEAD POST OFFICE BUILDING, NEAR RAILWAY RESERVATION OFFICE, JODHPUR

(Through Adv. Mr Vinit Mathur with Mrigradj Singh)

....., Respondents

D/14

(14)

ORDER
(oral)

Per: Hon'ble Mr. Justice K.C.Joshi, Judicial Member

In both OAs no order is challenged but it has been preferred for seeking the direction from this Tribunal to the respondents to count the service rendered by the applicants in Reserved Training Pool (RTP) as regular service for grant of benefit under Time Bound Promotion Scheme:

2. The brief facts of the case as averred by the applicants are that the Dr Bhagwan Ram applicant in OA 24/2009 was recruited as Postal Assistant/Sorting Assistant Reserved Training Pool (RTP) in the second half of 1982 and sent on practical training of sorting assistant vide order dated 12.9.1983 and appointed to the post of Postal Assistant on 3.10.1988. Respondent-department introduced a scheme w.e.f. 30.11.1983 viz. Time Bound Promotion Scheme (TBOP) for the financial upgradation of the employees. The applicant was granted benefit of the scheme vide order dated 18.01.2005 without taking into account the service rendered by the applicant as RTP during the period 12.9.1983 to 02.10.1988.

The applicant P.P. Purohit in OA No. 36/2009 was recruited as Postal Assistant/Sorting Assistant Reserved Training Pool (RTP) in the second half of 1983 and sent on practical training of sorting assistant vide order dated 04.10.1983 and appointed to the post of Postal

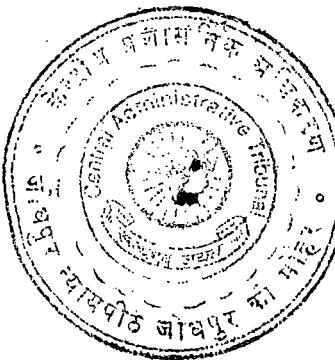


Assistant on 01.01.1987. The applicant was granted benefit of the TBOP scheme vide order dated 09.01.2004 without taking into account the service rendered by the applicant as RTP during the period 03.9.1983 to 01.01.1987.

The applicant No. 1 filed a representation dated 14.11.2007 to the respondent No. 3 to take into account service rendered by the applicant as RTP for the purpose of benefit under TBOP scheme which was rejected by the respondent No. 3 holding the decision of CAT in the case of PP Sharma vs UOI is not applicable in the case of the applicant, hence this OA has been filed.

3. The respondents by way of reply denied the facts as averred by the applicant and submitted that applicants were not recruited as Postal Assistant/Sorting Assistant, however they were listed as Reserved trained pool whose duties were utilized occasionally to meet out the shortage of staff due to absenteeism and other causes and the applicant was one of an approved RTP till their regular appointment. The applicants were upgraded to the higher pay scale under TBOP scheme after completion of 16 years of regular service in PA cadre and the services rendered as RTP cannot be counted as regular service.

4. Counsel for the applicants contended that upgradation under TBOP scheme is granted on the basis of completion of 16/26 years of service only in a particular grade and this fact has been ignored by the respondents. He further contended that applicant No. 1 in his representation referred the case of Shri Ramlal and on the contrary



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respondents while rejecting his request for taking into account the service rendered as RTP for benefit under TBOP scheme has referred the case of PP Sharma which suggests that his representation was dismissed without application of mind.

5. Per contra learned counsel for the respondents contended that the Reserved Trained Pool (RTP) was set up in October, 1980 to avoid overtime arrangements for shortage of staff due to absenteeism and other causes and it was decided that pool of trained reserve candidates (RTP) should be framed in each recruiting unit to meet short time needs and recurrent needs and this scheme was made applicable to the cadres of Postal Assistants and Sorting Assistants and RTP's were employed according to needs subject to a maximum of 8 hours a day and were paid hourly rates of wages and applicant had also been engaged under that pool and was subsequently absorbed in PA/SA cadre on regular basis on a later date. Hence, the service of the applicant can only be counted from the date of his appointment on the post of Postal Assistant. The counsel for the respondent further contended that while rejecting the representation of the applicant alongwith other RTP officials, DPS (Wester) informed that the decision of the Hon'ble CAT Bench Patna in OA No. 78/1995 dated 24.10.2000 in P.P. Sharma vs UOI upheld by the Hon'ble Raj. High Court vide CWP No. 7222/2007 dated 19.07.2007 in Union of India vs Ram Lal will not be applicable to the application and this observation was conveyed to the applicant. The counsel for the respondents cited the judgments of Hon'ble



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Supreme Court passed in Civil Appeal No. 80-123 of 1997 in UOI vs K.N. Srivadas & Ors and Civil Appeal No. 5739 of 2005 in M.Mathivanan vs UOI.

6. We have carefully considered the rival contentions and perused the annexs as well as judgments cited by them. The sole controversy which needs to be settled in both the OAs is that whether service rendered by the applicant as RTPs as Postal Assistant is regular service for the purpose of TBOP Scheme. Counsel for the applicant contended that the services rendered by the applicants as RTPs (Postal Assistant) shall be considered as regular service for the purpose of TBOP scheme and in support of his arguments he relied upon the judgment of the Hon'ble Apex Court UOI v/s M. Mathivanan reported in AIR 2006 SC 2236. Per Contra the learned counsel for the respondent contended that the entire controversy involved in these two OAs has been settled by the judgment of the Hon'ble Apex Court passed in UOI vs K.N. Sivdas Civil Appeal No. 80-123 of 1996 in which the Hon'ble Supreme Court has given directions that any service which was rendered prior to regular appointment in the cadre cannot be considered as service in any eligible cadre. The Honble apex Court in it judgment held that Tribunal has committed error in equating RTPs with the casual labourer and the position of the RTPs are very different from the regular employee. In this judgment Hon'ble Apex Court also held that the persons service as RTPs cannot be said to an employee unless and until he is absorbed in regular service.

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7. In view of the judgment of the Hon'ble Apex court passed in the above appeal, the matter is no more res-integra and the judgment cited by the counsel for the applicant has the different facts and issues, involved other than the present OAs. Accordingly, both these OAs are dismissed with no order as to costs.

**COMPARED &
CHECKED**

Rm

Sd
 (Meenakshi Hooja)
 Administrative Member

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Dated.....15.4.2013.

Sd
 (Justice K.C. Joshi)
 Judicial Member

J.K. Joshi

अधिकारी (न्याय.)

Section Officer (Judi.)

राजीव व्यावसायिक बिल्डर

Central Administrative Tribunal

जोधपुर नगरपालिका, जोधपुर

Southbar Branch, Jodhpur,

File
 For K. Methurs
 (ADT)
 16/04/2013

Recd. at 10 AM 26/4/13
 9 AM 68 Recd. 26/4/13
 द्वारा 5/12/2013
26/4/13