

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A.775/1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. G.S. Maingi, Administrative Member

1. Mr. Arun Lal Dutta son of Late Mahendra Mohan Dutta residing at 430/5, Ashokenagar, P.O. Ashokenagar, Dist-North 24 pgs. PIN-743222.
2. Mrs. Manu Rani Mukherjee Wife of Jahar Mukherjee, residing at 23, Naskarpura Road, Calcutta-700041.
3. Smt. Maya Ghosh Wife of P.C. Ghosh, residing at S.M.P. Sarani, Barracpore.

-All working for gain as Zoological Assistant in the Zoological Survey of India, Calcutta.

.... Applicants

-Versus-

1. Union of India, Service through the Secretary Ministry of Environment Forest Department of Environment, Forest and wild life, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
2. Zoological Survey of India, Service through the Director, 535-New Alipore, M.Block, Calcutta-700053.
3. Director, Zoological Survey of India, 535-New Alipore, M.Block, Calcutta-700053.
4. Scientist-SD/SE and Head Office, Zoological Survey of India, 535-New Alipore, M-Block, Calcutta-700053.

.... Respondents

For the applicant(s) : Mr. S. Goswami, counsel  
Mr. P.C. Das, counsel

For the respondents : Ms. U. Sanyal, counsel

Heard on : 28.3.2000

Order on : 28.3.2000

ORDER

D.Purkayastha, J.M. :-

Applicants, presently holding the post of Junior Zoological Assistant on regular basis filed this application claiming benefit of the Judgement of this Tribunal passed in O.A.No.877 of 1989 in the case of R.N.Sharma and ors. -Vs- Union of India & Ors. on the ground that similar reversion order passed by the

respondents in respect of Shri R.N.Sharma and Ors. has been set aside by this Tribunal by Order dated 12.12.1990 directing the respondents to restore the applicants to their promoted posts of Zoological Assistant within 90 days from that date i.e. 12.12.1990 and to pay their full salary and allowances for the intervening period as admissible under the rules.

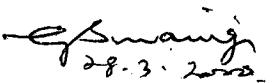
2. It is stated by the applicants that by Office order bearing Nos. 132/84 dated 28.4.84, 176/84 dated 13.7.1984 and 25/84 dated 23.1.84, they were promoted to the post of Zoological Assistant on Ad hoc basis. But by Office order dated 12.1.1988 the present applicants alongwith Shri R.N. Sharma and two others (applicants in O.A.No.877 of 1989) who were junior to them were reverted from the post of Zoological Assistant to Junior Zoological Assistant without assigning any reason. It is also stated by the applicants that they were selected by the Selection Committee for the purpose of appointment to the post of ~~Junior~~ Zoological Assistant in the year 1984. Since the applicants of the earlier case were granted benefit of service and salary etc. thereby they are also entitled to get the benefit of judgement reported in 1998 (1) SLJ-54 Page 55 in the case of K.C. Sharma & Ors. -Vs- Union of India & Ors. where the Hon'ble Appex Court has observed that application filed by similarly placed persons should not be rejected for bar of limitation.

3. Respondents filed written reply denying the submissions of the applicants. It is stated by the respondents that the applicants did not challenge the order of reversion and thereafter they have been promoted to the Post of ~~Zoological~~ Assistant again on 17.3.1989. Therefore, the applicants are not entitled to get the benefit of the judgement passed by this Tribunal in O.A.No.877 of 1989 setting aside the order of reversion in respect of Shri R.N.Sharma and Ors. So, the judgement passed by the Tribunal in O.A.No.877 of 1989 is

for in the application.

4. We have considered the submissions made by the ld. counsels for both sides and we find that the respondents appointed the applicants on ad hoc basis in the year 1984 as ~~Junior~~ Zoological Assistant. It is stated by Ms. U. Sanyal, ld. counsel appearing for the respondents that the recruitment rule for the appointment of Junior Zoological Assistant has been amended subsequently and came into effect w.e.f. 1992. In our view, two points should be considered by the respondents. <sup>Whether the applicants have</sup> Requisite Qualification for the appointment to the post of ~~Junior~~ Zoological Assistant in the year 1984 under the Recruitment Rules and whether the applicants were appointed to the post of ~~Junior~~ Zoological Assistant after due selection by the Selection Committee. If these two factors are found common like the applicants of O.A. No.877 of 1989, the applicants <sup>the</sup> are entitled to get the similar benefits as granted to them by the respondents.

5. With these observations we direct the respondents to consider the case of the applicants treating this application as a part of the representations of the applicants within three months from the date of communication of the order and to grant the benefit in the light of the observations made above. Reasoned and speaking order should be passed by the respondents. If decision is in favour of the applicants, all consequential reliefs which have been granted to the other applicants in O.A.No.877 of 1989 should be granted to the applicants within three months from the date of communication of this order. With these observations applications is disposed of awarding no costs.

  
28.3.2002  
G.S. MAINGI  
MEMBER(A)

  
D.PURKAYASTHA  
MEMBER(J)