

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A.NO.177/1997

DATE OF DECISION: 04.10.2004

PRESENT: HON'BLE MR. SARWESHWAR JHA, MEMBER (A)
HON'BLE MR. M.K. GUPTA, MEMBER (J)

B.K. Deb, Jr. Stenographer,
Department of Animal Husbandry &
Dairying, Regional Station for
Forge Production & Demonstration,
P.O. Netaji Subhas Sanatorium, Kalyani
(Nadia) Working as Head Clerk,
Resident of Kalyani, Nadia 741 251

... Applicant

V e r s u s

1. Union of India, through
The Secretary, Ministry of Agriculture,
Department of Animal Husbandry & Dairying
Krishi Bhavan, New Delhi 110 001
2. Director In Charge, Govt. of India,
Department of Animal Husbandry &
Dairying, Regional Station for
Forge Production & Demonstration,
P.O. Netaji Subhas Sanatorium,
Kalyani (Nadia) 741 251

... Respondents

Present for Applicant: Ms. B. Mondal/Mr.B.Chatterjee
Present for Respondents: Ms. K. Banerjee

O R D E R

PER SARWESHWAR JHA, MEMBER (A) :

The applicant has prayed for directions being given to the respondent No.2 to allow him to continue as Head Clerk and to absorb him as such, as he has been holding the said post for the last four years after he was duly selected by a DPC. He has submitted that it was the responsibility of the respondents to amend the Recruitment Rules in regard to the post of Head Clerk. For any lapse on the part of the respondents in this regard, he should not be deprived of the benefit of the post of Head Clerk to which he has been appointed.


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2. The applicant holds the post of Junior Stenographer on substantive basis. According to him, there is no avenue of promotion in his case. In order to provide for prospect of promotion, there was a proposal for promotion of Junior Stenographers to the post of Head Clerk, as claimed by him. He was duly selected clerk in the year 1993 to be appointed to the post for a period of three years and which post he is still holding. He has contended that while he has been promoted to the said post on ad hoc basis, it is for the reason that Recruitment Rules for the post have not been amended so as to enable him to be appointed to the said post on regular basis. As this is the only post in the Organisation, the policy in regard to reservation cannot be made applicable to the said post.

3. The action taken on the part of respondent No.2 advising the Subordinate Offices under the Department of Animal Husbandry & Dairying to fill the post of Head Clerk in the Regional Station for Forage Production & Demonstration, Kalyani (West Bengal) has been disputed by the applicant and it has been prayed that the said respondent be restrained from giving effect to the said letter. In any case, no further action has been taken, according to him, as per the said letter and that he still continues to hold the post. He has accordingly prayed for his absorption in the post against which he has been functioning efficiently and satisfactorily and that technicalities should not be allowed to stand in the way of justice and equality.

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4. The respondents, in their reply, have admitted that the applicant was appointed to the post of Head Clerk purely on ad hoc and temporary basis w.e.f. 26.12.1994 to 25.12.1995 and the same was continued upto 14.09.1996 or till the return of Shri B.D. Basu, the regular incumbent of the post from deputation, whichever was earlier. A reference has also been made to the fact that the Ministry was requested to continue the appointment of the applicant against the said post till such time Shri Basu returned to the post. It appears that the deputation of Shri Basu has, in the meantime, been extended. A reference has also been made to the request having been made by the respondents to the Ministry to carry forward the reservation point in regard to the post of Head Clerk for next recruitment. But this aspect of the matter seems to have been settled by the Ministry and the respondents have been advised to fill the post by appointing a reserve candidate. On the question of amendment of the Recruitment Rules for the post of Head Clerk of Regional Station for Forage Production and Demonstration incorporating the post of Junior Stenographer, Store Keeper and Upper Division Clerk cum Cashier, it has been submitted that necessary proposal has already been sent to the Ministry at different points of time, realising the fact that there are no promotional avenues to the Junior Stenographer and other categories as mentioned above. Details of the reference made in this regard have been given in paragraph 4 of the reply. The respondents have also confirmed that the representations received from the applicant had been forwarded to the Ministry for

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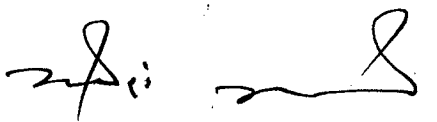
consideration and to which the Ministry has clarified that the post has to be filled only by a reserved candidate. We find that the respondents have thus not disputed the claim of the applicant that Recruitment Rules for the post of Head Clerk may be appropriately modified so as to include Junior Stenographer in the feeder cadre for promotion to the said post.

5. On careful perusal and examination of the facts of the case, it is observed that the applicant is holding the post of Junior Stenographer on substantive basis. As no promotional prospects are available to him, he has been appointed as Head Clerk on adhoc basis in the respondent organisation and he continues to hold the post. His request for amendment to the Recruitment Rules for the post of Head Clerk has also been recommended by the respondents to the Ministry, but his request for continued appointment in the post of Head Clerk on regular basis does not seem to have been accepted though it has been mentioned that his case will be considered only after the Recruitment Rules have been amended appropriately. It appears to be quite a peculiar situation in which the contentions of the applicant that he has no promotional prospects as a Junior Stenographer and that the Recruitment Rules be modified so as to provide for promotional prospects to him in the post of Head Clerk have not been disputed by the respondents; at the same time directions have been given that the post be filled as per the Recruitment Rules from amongst the reserved candidates. Obviously, there is lack of a sense of urgency applied

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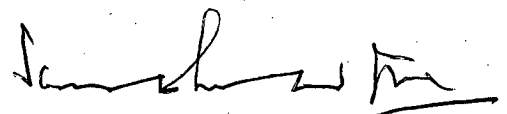
to the subject. If the respondents are of the view that there is no promotional prospect available to the applicant and if they further feel that there is no other post in the Organisation except the post of Head Clerk to which appointment could be provided to the applicant, they should expedite appropriate amendment to the Recruitment Rules so as to consider the Junior Stenographer together with other categories of employees for promotion to the post of Head Clerk. To keep the matter unresolved for the simple reason that Recruitment Rules have not been modified is not fair and will be detrimental to the morale of the employee. In the reply of the respondents, they do not appear to have taken an unhelpful position in regard to the applicant. Rather, they appear to have supported the case of the applicant. There is, thus, an appreciation of the grievance of the applicant as ventilated through this OA.

6. Under these circumstance, we are of the considered view that this OA can be allowed with a direction to the respondents, particularly to respondent No.1, to provide for promotional prospects to the Junior Stenographer, in this case the applicant, if necessary, by amending the Recruitment Rules for the post of Head Clerk, which matter is reported to have been referred to them and to ensure that the applicant continues in the post of Head Clerk till such time that the matter is appropriately finalised/resolved. It will be appreciated if it is finalised within a period of six months from the date of receipt of a copy of this order.



(Mukesh Kumar Gupta)

Member (J)



(Sarweshwar Jha)

Member (A)