

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.208/2001

Date of order: 14.11.2002

Miss Poonam Rani Tuteja, D/o Sh.Sunder Lal Tuteja, Senior T.O.A, O/o Chief Engineer(C), Bharat Sanchar Nigam Ltd, Jaipur, R/o A-310 Malviya Nagar, Jaipur.

...Applicant.

Vs.

1. Union of India through its Secretary, Govt of India, Deptt Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief Engineer (Civil) Rajasthan Zone, Doorsanchar Bhawan, 2nd Floor, Lal Kothi, Jaipur.

...Respondents.

Mr.P.V.Calla - Counsel for applicant.

Ms Shalini Sheoran, proxy of Mr.Bhanwar Bagri, for respondents.

CORAM:

Hon'ble Mr.G.C.Srivastava, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER.

The present application has ^{been} filed against the order/communication dated 4.5.2001 (Annex.A1) whereby the representation of the applicant dated 12.3.01 (Annex.A7) for granting her One Time Bound Promotion (OTBP) w.e.f. 11.3.2001 was rejected on the ground that her services stand regularised as OTA(G) w.e.f. 6.10.94 and as such her case for OTBP Scheme will be considered in due course. Feeling aggrieved by this action of the respondents, the applicant has filed the present O.A thereby praying for an appropriate writ, order or direction to the respondents to grant her promotion in the pay scale Rs.5000-8000 under OTBP Scheme w.e.f. 11.3.2001 with all consequential benefits with further direction declaring the letter dated 4.5.2001 (Annex.A1) as illegal and the same may be

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quashed and set aside.

2. Admitted facts between the parties are that the applicant was initially appointed as LDC/Typist on daily wage basis w.e.f. 11.3.85 and continued as such till 12.6.86 when her services were terminated. The order of termination dated 13.6.86 was challenged by the applicant through O.A No.131/87 and this Bench vide order dated 31.7.92, allowed the O.A and quashed the impugned order dated 13.6.86 and declaration was issued that the applicant shall continue to be in service of the respondents and she will be entitled for all consequential benefits. As per the order of the Tribunal dated 31.7.92, the applicant was reinstated in service on daily wage basis on the post of LDC w.e.f. 7.8.92 vide order dated 2.12.92. The applicant thereafter filed O.A No.548/93 for regularisation of her services which was finally disposed of vide order dated 15.4.94 (Annex.R1) wherein it was observed by the Tribunal that the applicant has appeared in the examination conducted by the Staff Selection Commission on 26.12.93 and in case she qualifies in the examination, she will be appointed on the post on regular basis. Pursuant to the aforesaid direction of this Tribunal in O.A No.548/93, the applicant was issued appointment letter dated 17.8.95 (Annex.R3) thereby appointing her as TOA (Genl.) w.e.f. 6.10.94 in the pay scale Rs.975-1660 on the terms and conditions mentioned therein. According to the respondents, the applicant joined duty on the aforesaid post on 24.8.95, as is apparent from Office Order dated 31.8.95 (Annex.R4). The respondents have also placed on record copy of Office order dated 23.1.96 (Annex.R5). A reading of this Office order makes it clear that the services of the applicant was regularised w.e.f. 6.10.94 with all consequential benefits as admissible under the rules. The applicant has also placed on

record Office Order dated 31.12.98 (Annx.A4). This letter shows that the services rendered by the applicant w.e.f. 11.3.85 to 5.10.94 as Temporary Daily wages LDC shall be counted/verified as qualifying service for the purpose of pension & other retirement benefits.

3. Based on the aforesaid facts, the main case of the applicant is that the services rendered by her as Daily Wages LDC w.e.f. 11.3.85 to 5.10.94, should also be counted for the purpose of granting the benefit under the OTBP Scheme and in case this service is counted, the applicant has completed 16 years of service on 11.3.2001 and as such she is entitled for the pay scale Rs.5000-8000 under OTBP Scheme w.e.f. 11.3.2001 with all consequential benefits.

4. On the other hand the case ^{as} set out by the respondents in the reply ^{to} that the applicant was regularised as TOA(G) w.e.f. 6.10.94 in the pay scale Rs.975-1660 as is apparent from appointment letter dated 17.8.95 (Annx.R3) and order of regularisation dated 23.1.96 (Annx.R5) and as such she has not put-in requisite service of 16 years as yet, therefore, her representation dated 12.3.01 was rightly rejected vide the impugned order Annx.Al.

5. The applicant has also filed rejoinder, reiterating the stand already taken in the O.A. Alongwith the rejoinder, the applicant annexed her application in the prescribed proforma meant for the purpose of allotment of quarter whereby the applicant in column No.5 has mentioned the date of continuous appointment as 11.3.85. Part-2 of this application has been signed by the Executive Engineer without filling the the column. The respondents in ~~the~~ reply to rejoinder have stated that the entry made in column 5 of the application for allotment of Govt quarter was wrongly made by the applicant

herself and subsequently vide letter dated 21.3.02 (Annex.RI) the appropriate authority rectified the mistake and informed that the date of regular appointment of the applicant is 6.10.94 instead of 11.3.85, as indicated under Sl.No.5 of the form.

6. We have heard the counsel for the parties and also perused the material on record. The main point which requires our consideration is as to whether the services rendered by the applicant w.e.f. 11.3.85 to 5.10.94 as LDC on Daily Wage basis shall be counted for the purpose of granting the benefit under OTBP Scheme.

7. In order to decide the matter in controversy, it will be proper to reproduce the relevant portion of para 2(1) of the OTBP Scheme which provides as under:

"The officials who after getting qualified and trained enter the restructured cadre before completion of 16 years of service in the pre-restructured cadre shall be placed in the pay scales indicated below on completion of 16 years of total service including that rendered in the pre-restructured cadre provided that he/she has put in a minimum of 4 years of service (including officiating spell) in the restructured cadre."

Thus, from the above it is quite evident that the benefit of OTBP Scheme is admissible only to those officials who have completed 16 years of total service including that rendered in the pre-restructured cadre provided that he/she has put in minimum of 4 years of service in the restructured cadre. The applicant herself has placed on record the memo dated 19.4.99 (Annex.A5) which shows that the applicant is placed in the restructure cadre of Sr.TOA(G) in the scale Rs.4000-6000 w.e.f. 1.4.96 under FR 22(1)(a)(ii). Similarly, the respondents have

also placed on record the appointment letter dated 17.8.95 (Annex.R3) which shows that the applicant, a daily waged LDC is appointed as TOG w.e.f. 6.10.94 in the scale Rs.975-1660, on the terms and conditions mentioned therein. The respondents have also placed on record office order dated 23.1.96 (Annex.R5) which indicates that the service of the applicant as TOA(G) is regularised w.e.f. 6.10.94 in the pay scale Rs.975-1660. The applicant has not challenged these orders and has accepted her appointment as TOA(G) w.e.f. 6.10.94 in the regular pay scale. Similarly, the applicant has also not challenged the memo dated 19.4.99 (Annex.A5) whereby she was placed in restructured cadre w.e.f. 1.4.96. Thus, from the observations as made above, it can be safely concluded that the services rendered by the applicant w.e.f. 11.3.85 to 5.10.94 cannot be counted for the purpose of extending the benefit of the pay scale as admissible under OTBP Scheme as she was not the member of the pre-restructured cadre prior to her regularisation w.e.f. 6.10.94. Further, the counsel for the applicant has not brought to our notice any rules or instructions from which it can be inferred that the service rendered as LDC on daily wage basis can be considered as regular service for the purpose of granting benefit under OTBP Scheme.

8. At this stage, it may also be useful to notice para 2 of the office order dated 31.12.98 (Annex.A4) which reads as under:

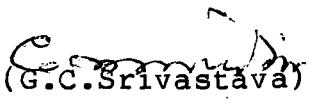
"Sanction of the Chief Engineer(C) Telecom. Civil, Raj. Zone, Jaipur is hereby conveyed that as per Rule 13 of CCS Pension Rules, 1972, the services rendered by Miss Poonam Rani Tuteja w.e.f. 11.3.85 to 5.10.94 as Temp. Daily Wages LDC shall be counted/verified as qualifying service for the purpose of pension & other retirement benefits."

From the portion quoted above, it is quite evident that

the service rendered by the applicant w.e.f. 11.3.85 to 5.10.94 as Temp. Daily Wages LDC has been counted as qualifying service only for the purpose of pension & other retirement benefits. This period has not been counted as regular service for other purposes. The applicant has not made any grievance against this order also, As such, it is not legally permissible now for the applicant to contend that the services rendered by her as Daily Wages LDC should also be counted for other purposes and be treated as regular service. Thus, we are of the view that the applicant was regularised as TOA(F) w.e.f. 6.10.94 as such she became the member of regular cadre only w.e.f. 6.10.94 and service rendered by her as Daily Wages LDC, prior to this date cannot be taken into account for granting benefit under the OTBP Scheme. The application is accordingly dismissed with no order as to costs.


(M.L.Chauhan)

Member (J)


(G.C.Srivastava)

Member (A).