

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 137 of 1998.

DATE OF DECISION...16-11-1999

Shri Joshada Ranjan Chakraborty (PETITIONER(S))

S/Shri B.K.Sharma, S.Sarma. ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

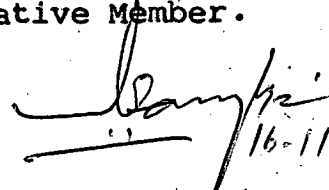
Union of India and others. RESPONDENT(S)

Shri A.Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N.BARUAH, VICE CHAIRMAN.
THE HON'BLE MR G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


16-11-99

9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 137 of 1998.

Date of Order : This the 16th Day of November, 1999.

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman.

The Hon'ble Mr G.L. Sanglyine, Administrative Member.

Shri Joshada Ranjan Chakraborty,
Sub Area Organiser, SSB,
Kailashahar, North Tripura.

. . . Applicant

By Advocate S/Shri B.K. Sharma, S. Sarma.

- Versus -

1. Union of India
through the Secretary,
Cabinet Secretariat,
South Block, New Delhi-1.
2. The Director General, Security,
South Block, New Delhi-1.
3. The Director, SSB,
Block-V (East),
R.K. Puram, New Delhi-66.
4. Shri T.S.R. Subramaniam,
Secretary, Cabinet Secretariat,
South Block, New Delhi-1.
5. Shri Arvind Dave, IPS,
Director General, Security,
South Block, New Delhi-1.
6. N.S. Sandhu, IPS,
Director, SSB, Block-V (East),
R.K. Puram, New Delhi-66.

. . . Respondents.

By Advocate Shri A. Deb Roy, Sr. C.G.S.C.

O R D E R

G.L. SANGLYINE, ADMN. MEMBER,

The applicant was working as Assistant Teacher under the Education Department, Government of Assam. On 15.6.1966 his services was placed at the disposal of the Prime Minister's Secretariat as Circle Organiser, Special Service Bureau (SSB for short) on deputation basis and he joined the post on 15.7.1966. He continued on deputation with the SSB and on 22.4.1981 he was ordered to be repatriated to his parent department under the State of Assam. Thereupon

contd..2

the applicant submitted Writ Petition before the Hon'ble Gauhati High Court which was registered as Civil Rule No. 488 of 1981 and later on transferred to the Central Administrative Tribunal, Guwahati Bench and registered as G.C.No. 314 of 1986. This case was disposed of by the Tribunal on 11.2.1987 with the following findings :-

"In the circumstances without entering into the intricacies of the rules and regulations and the rival contentions on rights, in all fairness, the applicant should be permanently absorbed in the service.

In the result, the application must be allowed. Accordingly, we quash and set aside the order of repatriation passed on 22.4.1981 by the Area Organiser, S.S.B., Cachar and direct the respondents that the applicant be immediately absorbed in the department. In the facts and circumstances of the case, we pass no order as to costs."

The respondents in the O.A. preferred appeal before the Hon'ble Supreme Court in Civil Appeal No.1877 of 1988. This appeal was disposed of on 5.2.1997. For ready reference we reproduced the order dated 5.2.1997 below :

"We heard counsel.

In the peculiar facts and circumstances of the case, we are not inclined to go into the details of the matter.

The respondent was sent on deputation to S.S.B. as early as on 15.6.66. He has been continuing in the said "Department" since then. The Screening Committee was formed only in 1976 and it was decided on 7.3.1977 that the respondent should be repatriated to the parent Department. The repatriation was stayed by Court's order from time to time. Finally, the Central Administrative Tribunal, Guwahati Bench, by order dated 11.2.87, passed an order quashing the order of repatriation and directed the appellants to absorb the respondent in the "Department" with immediate effect.

The respondent has got only a year or a little more to retire. In the peculiar facts of this case, we are of the view that the respondent should be permitted to continue in the 'Department' - S.S.B. till his retirement. The order of the

Tribunal that the respondent should be absorbed in the department will apply only insofar as monetary benefits of the respondent are concerned. With regard to promotion, the case of the respondent will be considered by the Promotion Committee and only if he is found fit and suitable by the Committee, he will be entitled to the benefits relating thereto. Subject to this modification, the appeal shall stand dismissed with no order as to costs. We make it clear that this decision shall not be a precedent in other cases."

The applicant submitted a letter dated 5.8.1997 (Annexure-5) to the Director, S.S.B., New Delhi seeking implementation of the order of the Hon'ble Supreme Court of India dated 5.2.1997. His prayer in this representation are :

"I have been receiving Central Scale of Pay since 1978, Shall I get pension from the Central Government, or I shall have to keep liason with the Assam Education Department for the purpose.

Since the SLP is dismissed by the Hon'ble Supreme Court of India and thereby upheld the orders of the Hon'ble CAT, Guwahati Bench, do I stand permanently absorbed in SSB on initial constitution of the Junior Executive Service Rules (as in case of Shri T.N.Deka, SAO, since retired).

I have been in SSB for the last 32 years in the same Rank (Circle Organiser) which has been observed by the Hon'ble Supreme Court of India as "peculiar fact and circumstances". Although I did never receive anything adverse in my ACR, my case was never forwarded to the D.P.C. Shall my case be forwarded to the D.P.C. now, as ordered by the Hon'ble Supreme Court. Incidentally my Juniors in SSB have been holding high positions of DIG/IG."

On 28.8.1997 he was directed to submit his pension papers to Director of Accounts, Cabinet Secretariat, New Delhi.

On 3.9.1997 he was appointed to the post of Sub Area Organiser in the scale of pay of Rs.2000-3500/- plus other allowances as admissible under the rules with effect from the date he assumes the charge of the post till further orders. Thereafter he submitted representation dated

3.11.1997, Annexure-5A and representation dated 7.4.1998, Annexure-6A. Apparently there was no reply to the aforesaid representations. However, by Annexure-8 letter dated 29.5.1998 the applicant was communicated the contents of Order No.2463 dated 28.5.1998 which reads as below :

"DTES. STG. NO. 11748 DTD. 26.5.98 REG. EXTENSION OF AGE ON SUPERANNUATION IN R/C J.R.CHAKRABORTY SAO ARE AS UNDER (.). QUOTE (.) CAB. SECTT. VIDE THEIR U.O. DT. 25.5.98 HAS INTIMATED THAT J.R.CHAKRABORTY SAO BEING ASSAM GOVT. EMPLOYEE BE RELIEVED ON RETIREMENT ON (AN) OF 31.5.98 OF HIS ATTAINING THE AGE OF 58 YEARS (.) THIS WAS ALSO SPECIFIED IN SSB.DTE. ORDER NO. 17/SSB/A/2/83(2) VOL.IV DT. 16.7.97(.) PRESENT ORDERS OF DEPTT. OF P AND T ENHANCING AGE OF RETIREMENT OF CENTRAL GOVT. EMPLOYEE TO 60 ARE NOT APPLICABLE TO HIS CASE BEING STATE GOVT. EMPLOYEE (.) FORMAL ORDER OF SUPERANNUATION SENT BY POST (.) ENSURE HIS RELEASE ON 31.5.98 (AN) FORWARD CTC. FOR ISSUE NOTIFICATION (.) CFM. COMPLIANCE/MSG.(.) UNQUOTE (.) RQSTS INFO. OFFICER ACCORDINGLY ALSO ASKED OFFICER TO SUBMIT PASSPORT SIZE JOINT PHOTOGRAPH IN TRIPLICATE(.)"

The applicant was released from service on attaining the age of superannuation on the afternoon of 31.5.1998 by order dated 11.6.1998 issued by the Joint Director, Directorate General of Security, New Delhi which reads as below :

"Consequent upon his attaining the age of 58 years, Shri J.R.Chakraborty, Sub-Area Organiser on deputation from Education Department, Assam Govt. to SSB & posted in SSB, Shillong Division is released of his duties on superannuation from Govt. service on the afternoon of 31st May, 1998. Shri J.R.Chakraborty was on deputation from Assam Govt., where the age of superannuation of State Government employees (including Teachers) is 58 years of age."

In the meantime, the Government of India by Office Memorandum dated 13.5.1998, Annexure-7, raised the age of superannuation of Central Government employees from 58 to 60 years.

2. The applicant submitted this Original Application on 22.6.1998. His main reliefs are as follows :

"To set aside and quash the impugned order dated 29.5.98 (Annexure-8) with further direction to allow the applicant to continue

in service of the SSB till he attains the age of superannuation i.e. 60 years (31.5.2000) with all consequential service benefits.

2. To direct the respondents to effectively implement the order dated 11.2.87 passed in G.C.No.314/86 affirmed by the Apex Court by its order dated 5.2.97 passed in Civil Appeal No. 1877/88.

3. To direct the respondents to pass necessary order of permanent absorption of the applicant with retrospective effect with all consequential service benefits as was done in the case of Shri T.N.Deka, the Applicant in G.C.No.73/86 vide Annexure-2 order dated 18.8.87.

4. To direct the respondents to grant promotions to the applicant to which he is legally entitled as per avenue of promotion with all consequential benefits of salary etc."

3. The respondents have submitted show cause and written objections to admission of this O.A. We have perused the O.A. and the show cause and written objections. We have also heard learned counsel of both sides. We are of the view that this Tribunal cannot make scrutiny and decision in respect of the prayers of the applicant in the facts and circumstances of this case. It will be seen that the applicant has prayed for continuance in service till he attains the age of 60 years on 31.5.2000. This contention is made on the ground that the age of retirement of Central Government employees was raised to 60 years as per Annexure-7. Regarding continuance of the applicant in service with S.S.B the Hon'ble Supreme Court in the order dated 5.2.1997 reproduced above had held as below :

"The respondent has got only a year or a little more to retire. In the peculiar facts of this case, we are of the view that the respondent should be permitted to continue in the 'Department' - S.S.B. till his retirement. The order of the Tribunal that the respondent should be absorbed in the department will apply only insofar as monetary benefits of the respondent are concerned. . . ."

The applicant has prayed for effective implementation of the order dated 11.2.1987 passed by this Tribunal in G.C.No. 314

1986 affirmed by the Apex Court by its order dated 5.2.1997 passed in Civil Appeal No.1877 of 1988. It will be seen from the order dated 5.2.1997 that the Hon'ble Supreme Court had made modifications of the order of the Tribunal and had, subject to the modifications, dismissed the appeal. In our view the applicant is to approach the respondents for implementation of the order if according to him the order had not been effectively implemented. The applicant also prays for a direction to the respondents to absorb him permanently in the department with retrospective effect with all consequential service benefits as was done in the case of Sri T.N.Deka. It may be mentioned that consequent to the order of the Tribunal in his case Shri Deka was appointed in the S.S.B (Junior Executive) Service at the initial constitution of the Service Rules with effect from 30.6.1976 by order at Annexure-2. The issue of permanent absorption of the applicant in the service at initial constitution was discussed in the order dated 11.2.1987 of the Tribunal. It is also seen that in para 17 of the order the Tribunal had mentioned the case of Sri Tara Nath Deka (G.C.No.73 of 1986) and observed as below :

"We may also mention here that in a recent decision of this Bench in Guwahati Case No. 73 of 1986 Civil Rule No. 1258 of 1986 - Shri Taranath Deka vrs. Union of India and others, disposed of on 19.11.1986, on almost identical facts, we expressed similar view."

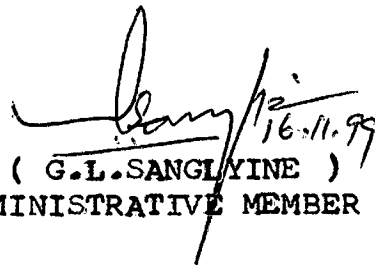
Regarding absorption, the Hon'ble Supreme Court in the order dated 5.2.1997 referred to above had directed that the order of the Tribunal that the applicant in the present application should be absorbed in the department will apply only insofar as monetary benefits of the applicant are concerned. Regarding promotion the Hon'ble Supreme Court had directed that the case of the applicant in the present O.A. will be

considered by the Promotion Committee and only if he is found fit and suitable by the Committee he will be entitled to the benefits relating thereto. The applicant was appointed to the post of Sub-Area Organiser by order dated 3.9.1997 with effect from the date he assumed charge of the post till further order. In view of the above we dispose of this application with a direction to the applicant to submit appropriate representation to the competent authority of the respondents within 1 month from the date of receipt of this order stating details and reasons in support of his claims and further, if such representation is received, the respondents shall communicate a speaking order to the applicant within 1 month from the date of receipt of the representation.

The application is disposed of. No order as to costs.



(D.N.BARUAH)
VICE CHAIRMAN



(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER