

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No 280 of 2005

This the 27th day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

C.K. Shastry

S/o Late. C. Suryanaraya Shastry,
Aged about 58 years, Employed as
Primary School Teacher, S.E.C.Rly,
Mixed Primary School (H/M)
BMY-Charoda, Tehsil and District Durg (CG)

Applicant

(By Advocate – Shri B.P.Rao)

V E R S U S

1. Union of India,
Through : The General Manager,
South East Central Railway,
Bilaspur Zone, G.M. Office, PO : Bilaspur
Tehsil & District : Bilaspur (CG).
2. The Divisional Railway Manager,
South East Central Railway,
Raipur Division, Raipur
Tehsil & District : Raipur (CG)
3. The Divisional Personnel Officer,
South East Central Railway,
Raipur Division, Raipur
Tehsil & District : Raipur (CG) Respondents

(By Advocate – Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“8.2to decide the applicant's grievance or to pass a direction to the Respondent/s, to dispose his pending Representation dated 3.11.2001 (Annexure-A-6) & 24.6.2004 (Annexure-A-7) and 30.6.2004 (Annexure-A-8) at the earliest.”

(Q)

2. The brief facts of the case as stated by the applicant are that the applicant was initially appointed as Lower Division Teacher in the M.P. State Government in the year 1973 and after working about 10 years 4 months he applied in the respondents department. After verification of educational certificates he was engaged provisionally for a period of 3 months as Assistant Teacher Gr.IV Hindi Medium against a leave vacancy in the Railway School at Kharagapur. According to the applicant in the year 2001 the respondent No.3 has issued a seniority list dated 1.1.2001 wherein the applicant's date of appointment is wrongly mentioned as 11.2.1984 instead of 9.12.1983. Thereafter the applicant has submitted his representation dated 3.11.2001 (Annexure-A-6) and requested for necessary correction in his date of joining in the aforesaid seniority list. But the respondents have not paid any heed to aforesaid representation of the applicant and treated his date of joining as 11.2.1984. The applicant was granted first Financial Upgradation under the ACP scheme w.e.f. 11.2.1996 whereas he was entitled for such upgradation from 9.12.1985. The applicant submitted representations on 24.6.2004 and on 30.6.2004 pointing out about the losses caused to him only due to incorrect date of joining mentioned in the seniority list dated 1.1.2001, and requested to the respondents for proper correction in all records so that his wages can be properly fixed under the Vth Pay Commission. However no action has been taken by the respondents so far. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant argued that the applicant was engaged provisionally for a period of 3 months as Assistant Teacher Gr.IV Hindi Medium vide order dated 8.12.1983 against a leave vacancy in the Railway School at Kharagapur. The applicant accepted the aforesaid order and joined his duties on 9.12.1983



(Annexure-A-2). On 1.1.2001 a seniority list has been published wherein the date of joining of the applicant is wrongly mentioned as 11.2.1984 in place of 9.12.1983. The learned counsel for the applicant has also argued that the applicant was entitled for first financial upgradation under the ACP scheme w.e.f. 9.12.1985 whereas the respondents have considered this benefits w.e.f. 11.2.1996. Therefore, the applicant is facing very huge financial loss.

5. In reply, the learned counsel for the respondents argued that the applicant was provisionally engaged for a period of three months as Assistant Teacher Gr.IV Hindi Medium, vide order dated 8.12.1983 against a leave vacancy in the Railway School at Kharagapur in which it is clearly mentioned that the vacancy in which the applicant was engaged against leave/sick vacancy and would automatically cease on joining of regular incumbent. However, the applicant was appointed on regular basis w.e.f. 11.2.1984 (Annexure-R-1). The learned counsel for the respondents also argued that as per Railway Board's circular dated 23.3.1989 it is clarified that on completion of 12 years of regular service the incumbent is entitled for financial upgradation under ACP scheme and it is clarified vide Estt. Sr.No. 157/89 issued by CPO/GRC that the period of substitute service rendered by a teacher in the same grade before their regular absorption will not be taken into account for reckoning 12 years service. The learned counsel for the respondents further argued that the applicant was regularly appointed on 11.2.1984 i.e. after completion of 90 days of service. Therefore, the applicant was assigned correct date of joining the seniority list and the applicant was rightly granted first financial upgradation under the ACP scheme from 11.2.96 after completion of regular service of 12 years . Hence, the respondents have not committed any irregularity or illegality with the applicant.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that it is an admitted fact that the

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applicant was provisionally appointed as Assistant Teacher Gr.IV Hindi Medium in the respondents department for a period of 3 months on leave/sick vacancy vide order dated 8.12.83 and he joined the said post on 9.12.1983. After completion of 90 days he was regularized vide order dated 16.2.2004 w.e.f. 11.2.1984. Therefore, the applicant cannot say that he was appointed on the said post on 9.12.1983 on regular basis and it is very clear from the service sheet of the applicant Annexure-R-1. We have perused the Railway Board's letter dated 4.7.1989 (Annexure-R-II) wherein it is clarified that the period of substitute service rendered by a teacher in the same grade before their regular absorption will not be taken into account for reckoning 12 years service. Hence the applicant is not entitled for first financial upgradation from 9.2.1985. The respondents have rightly been granted first financial upgradation under the ACP Scheme w.e.f. 11.2.96 after completion of regular service of 12 years to the applicant.

7. Considering all the facts and circumstances of the case, we do not find any merits in this case. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

M.P.Singh)

Vice Chairman

skpm

पृष्ठांकन सं. ओ/छया..... जवलासु, दि. —

(1) संविव उत्तराखण्ड के अधिकारी विधायिका, अल्मोड़ा
 (2) आवेदन ब्राह्मण विधायिका, अल्मोड़ा
 (3) प्रस्थायी शोध विधायिका, अल्मोड़ा
 (4) अंगारक विधायिका, अल्मोड़ा

B. P. Rao (ordained)

M. H. Brewster

AN 1005

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