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**Central Administrative Tribunal
Jabalpur Bench**

OA No.937/05

Jabalpur, this the ^{26th}.....day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Kriparam Baghel
S/o late Shri Chhabu Baghel
Retd. Sorting Assistant
R/o Village Donda
Post Shejbahar
Tahsil & District Raipur.

Applicant

(By advocate Shri Y.V.R.Rao)

Versus

1. Union of India
Through Secretary
Ministry of Communication
Postal Department
Dak Bhawan
New Delhi.
2. The Director
Postal Services
Chhattisgarh Circle
Raipur.
3. The Superintendent
Railway Mail Service
Raipur Division
Raipur.

Respondents

(By advocate Shri P.Shankaran)

ORDER

By A.K.Gaur, Judicial Member

This Original Application has been filed for the following reliefs:

- (i) Extend the benefit of decision of Hon'ble Supreme Court in the case of Dwijen Chandra Sarkar vs. Union of India and others, and direct respondents to count his past
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services rendered in Rehabilitation Department for the purpose of promotion after 16 years and further after completion of 26 years of service with fixation of pay and revised scale of pay.

- (ii) Direct respondents to pay him arrears of salary after proper fixation under higher scale of pay along with interest of 12% per annum, besides compensation and costs.

2. The facts briefly stated are that the applicant was appointed as Primary Teacher on 1.10.1970 in the Ministry of Labour and Rehabilitation and posted at Kurud Camp Primary School in Raipur. After abolition of Rehabilitation Department at Raipur, he was declared as surplus and was re-deployed as Postal Assistant in the Office of the Post Master General of Madhya Pradesh Circle, Bhopal on 11.8.1980. The case of the applicant is that he applied for one time bound promotion after 16 years of service and requested that the period he spent in the Rehabilitation Department be included. However, he was granted time bound promotion w.e.f. 8.8.1998 after completion of more than 16 years in the Department of Posts from the date of his re-deployment, but the services rendered from 1.10.1970 to 31.7.1980 in the Rehabilitation Department was not counted. He made a representation to the department and it elicited no response. Hence this OA has been filed.

3. Learned counsel for applicant argued that his case is squarely covered by the decision of Hon'ble Supreme Court in Dwijen Chandra vs. Union of India and others rendered in A.I.R. 1995 SC 598 and this decision had been followed in another two cases decided by this Tribunal in OA No.212/2000 and 407/2000. Para 19 of said decision of the Apex Court is reproduced hereunder:

"19. In our view, the Tribunal was in error and its order is set aside. The appellants will be entitled to the higher grade from the date they completed 16 years of service - computing the same by taking into account their past service in the Rehabilitation Department also along with the service in the P&T Department. They will be so entitled as long as they remained in the post of Assistant and till their normal promotion to a higher post according to Rules. The difference between the emoluments in the grade as due to them and amount which was actually paid to them, shall be computed and

be paid within a month from the date of this order. There will be no order as to cost."

4. In their reply, the respondents stated that applicant was redeployed in the Department of Posts on 11.8.980 as Postal Assistant and subsequently as Sorting Assistant on 22.2.1981. He was granted promotion under TBOP Scheme w.e.f. 8.8.98 in the scale of pay of Rs.4500-7000/- after completing 16 years qualifying service in the Department of Post i.e. from the date of his re-deployment i.e. 11.8.1980 and he took voluntary retirement from service on 1.1.2001. The cases cited by the applicant are not applicable to him as he was holding a post in lower scale of pay in Rehabilitation Department than the post on which he was re-deployed in Department of Posts. Therefore it was not an equal and comparable post to count his past service for benefit under TBOP scheme in postal department. Further, as per the scheme, an employee should complete 16 years qualifying service in the grade in which he was appointed in postal department, which means the service rendered in another grade in a different department prior to appointment in postal department is not counted as qualifying service for computing 16/26 years service for the benefit. The applicant was appointed as Sorting Assistant from 22.2.1981 and not from 14.10.70 as claimed by him.
5. We have heard learned counsel appearing on both sides and carefully perused the records. We have also gone through the decisions cited on behalf of the applicant.
6. On a careful perusal of the orders passed by this Tribunal in OA No.407/2000 and 212/2000, we find that identical employees of the Department of Rehabilitation, whose services were transferred to Postal Department, were allowed such one time bound promotion, counting the past services spent in the Department of Rehabilitation. The aforesaid cases were decided following the judgement of the Supreme Court in Dwijen Chandra Sarkar vs. Union of India. We are of the considered view that the present case is squarely covered by the aforesaid decisions cited on behalf of the applicant.

7. Accordingly this OA is allowed. Following the judgement of the Supreme Court in Dwijen Chandra Sarkar vs. Union of India, the applicant may be given the benefit of past services rendered in the Rehabilitation Department for time bound promotion as claimed by him with all consequential benefits including arrears, within a period of three months from the date of communication of this order. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

aa.

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

प लिखितपि अर्जे अगत:-

- (1) सचिव, उच्च न्यायालय काउंसिल, जबलपुर
- (2) आदेशक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) कंसलर, कंसलर, जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्रवाई हेतु

[Signature]
उप रजिस्ट्रार

Y.V. Ramen Rao
Dr. Rajesh
P. Shan Karan
DR 0000

ISSUED
on 3/11/07
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