

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR**

**Original Application No. 991 of 2004**

Indore, this the 17<sup>th</sup> day of November, 2005

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

Aswini Kumar Mandol,  
S/o. late Shri Rashiklal Mandol,  
Date of Birth – 30.8.1950,  
R/o. Block 20/23, Room No. 5,  
Mana Camp, Raipur (CG). .... Applicants

(By Advocate – Shri V. Tripathi on behalf of Shri S. Paul)

**V e r s u s**

1. Union of India, through its Secretary,  
Ministry of Communication, Deptt.  
Of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General,  
Chhattisgarh Circle, Raipur.
3. The Senior Superintendent of Post Offices,  
Jabalpur Division, Jabalpur. .... Respondents

(By Advocate – Shri S.A. Dharmadhikari)

**O R D E R**

**By Madan Mohan, Judicial Member -**

By filing this Original Application the applicant has claimed the following main relief :

“(ii) upon holding that the inaction of the department in not extending the benefit of judgment in Dwijendra Chandra Sarkar's case and various judgments of the Tribunal is bad in law, command them to extend the benefits in favour of the applicant from the date of his entitlement when he completed 16 and 26 years of service with all consequential benefits from the date of original appointment in Mana Camp, including seniority, arrears of pay and other benefits arising thereto.”



2. The brief facts of the case are that the applicant was initially appointed as a Primary Teacher on 1.2.1974 in the Department of Rehabilitation, Mana Camp. After abolition of the Rehabilitation Department the applicant was absorbed in the Postal Department as Postal Assistant. Thereafter the applicant is continuously working as Postal Assistant with utmost honesty, sincerity and devotion. The department of Post has framed a time bound promotion scheme known as OTBP & BCR granted after completion of 16 and 26 years of service. The respondents have calculated the 16 years of the applicant service from the date of his absorption in the Postal Department. Total length of service of the applicant has not been counted by the respondents for the purpose of benefit of OTBP & BCR schemes. Similar question arose before the Hon'ble Supreme Court in the case of Dwijen Chandra Sarkar & another Vs. Union of India & another, AIR 1999 SC 598. The Tribunal has also passed several orders in OA No. 305/1999, OA No. 407/2000 and others granting such similar benefits to the applicants there, after following the judgment of the Hon'ble Supreme Court referred to above. If the services rendered in Mana Camp are also counted in the case of the applicant then he will be entitled to get the benefit of OTBP scheme w.e.f. February, 1990. In this regard the applicant has also filed several representations but it was not considered by the respondents. Hence, this Original Application is filed.

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

4. The learned counsel for the applicant argued that in a similar case in OA No. 407/2000 vide order dated 15<sup>th</sup> July, 2002 the Tribunal directed the respondents to count the past service of the applicant spent in Mana Camp of Department of Rehabilitation for the purpose of granting OTBP to the applicant and to pass the necessary orders. The applicant's case is squarely covered with the said judgment of the Hon'ble Supreme Court as



well as the order passed by the Tribunal in OA No. 407/2000. Thus, the applicant is entitled for the reliefs claimed by him.

5. In reply the learned counsel for the respondents argued that the applicant was given one time bound promotion in August, 1996. This promotion is given to the applicant after he has completed 16 years of qualifying service subject to other conditions. The respondents have further argued that similar benefits cannot be extended to other employees, as they have to fulfill the conditions of OTBP scheme. The respondents have not committed any illegality or irregularity while considering the case of the applicant for grant of benefit under the OTBP scheme. Hence, this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the learned counsel for the applicant has asserted that on the basis of Dwijin Chandra Sarkar's case (supra) the period of service of the applicant spent in the Department of Rehabilitation should have been counted for limited purpose of awarding benefit under OTBP scheme. He also submitted that the case of Dwijin Chandra Sarkar was identical to that of the present applicant in as much as the applicants of that case were also earlier working in Mana Camp and were considered surplus staff who were re-deployed and were treated as transfer in public interest. He also submitted that the past services is to be counted for all purposes i.e. fixation of pay, pension and gratuity except seniority. We have perused the case cited by the applicant and we find that similar relief has been granted by this Tribunal to the applicants there. In OA No. 407/2000 the Tribunal has passed the following order :

"5. On the basis of discussion made above we direct the respondents to pass necessary orders in the light of the aforesaid Supreme Court order and in the light of order passed by this Tribunal in OA No. 304/1999 and to count the past service of the applicant spent in Mana Camp of Department of Rehabilitation for the purpose of granting OTBP to the applicant and to pass the

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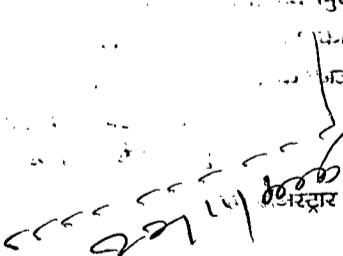
necessary order within 4 weeks from the date of receipt of this order. Accordingly, this OA is allowed. The parties will bear their own costs."

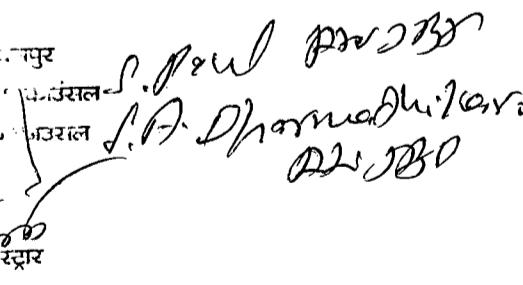
Thus, we find that the present case is squarely covered in all fours with the order so passed in OA No. 407/2000 and the decision passed in the said OA shall mutatis mutandis applicable to be present case as well.

7. Hence, in view of the above we direct the respondents to pass necessary orders in the light of the decision of the Hon'ble Supreme Court in the case of Dwijin Chandra Sarkar (supra) and also in the light of the order passed by the Tribunal in OA No. 407/2000 and to count the past service of the applicant spent in Mana Camp of Department of Rehabilitation for the purpose of granting OTBP to the applicant, within a period of 4 weeks from the date of receipt of a copy of this order. Accordingly, the Original Application is allowed. No costs.

  
**(Madan Mohan)**  
 Judicial Member

  
**(M.P. Singh)**  
 Vice Chairman

"SA"   
 पृष्ठांकज सं. ओ/ज्या.....ना.लप्प, दि.....  
 चाहिये जा दे  
 (1) राधिका राधि  
 (2) श्रीमती राधि  
 (3) परमार  
 (4) विष्णु विष्णु  
 सुनीता सुनीता  
 अस्त्रार अस्त्रार

  
 S. P. Singh 22/11/2005  
 S. P. Dhamadhi 22/11/2005  
 22/11/2005

  
 22/11/05