

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 817 of 2003

Jabalpur, this the 6th day of July, 2004

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

1. Smt. Sumala Kurup, W/o. Shri Rajan Mohan, Date of birth 5.6.1950, R/o. Sector II, LIG 132, Shankar Nagar, Raipur.
2. Smt. Anjali Sarkar, W/o. late Shri Dharendra Sarkar, Date of birth 14.1.1953, R/o. Qr. No. C-2/6, Postal Colony, Tikarapara, Raipur.
3. Smt. Shail Sharma, W/o. Shri N.K. Sharma, Date of birth 1.7.1948, R/o. House No. 25/312, Ram Mandir Gali, Kankalipara, Raipur. ... Applicants

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through its Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Chhattisgarh Circle, Raipur.
3. Sr. Superintendent of Post Offices, Raipur Division, Raipur-492 001 (CG). ... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants have claimed the following main relief :

"(b) 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 applicants from the date of their entitlement when applicants completed 16 years of service with all consequential benefits including seniority, arrears of pay and other benefits arising thereto."

2. The brief facts of the case are that the applicants are presently working in the civil posts under the respondent

department. The applicant No. 1 is Sorting Asstt. whereas the applicant No. 2 and 3 are working as Postal Assistant. The applicants were initially appointed in the Department of Rehabilitation in Mana Camp. The applicants joined in the year 1970 and 1971 in the said Department. On abolition of the Rehabilitation Department, the applicants were subsequently absorbed in the Postal Department. The Department of Posts has prepared a scheme which is popularly known as OTBP Scheme. Under this scheme, the pay scale attached to the promotional post is granted to the employees on rendering 16 years of service. The said scale is provided during the said 16 years. The employee is not given any promotion and is stagnating on the same pay scale. By OTBP scheme only a financial upgradation is provided to the employees. The applicants are entitled to get the benefit of OTBP scheme but this benefit has not been extended to them. Hence, this Original Application.

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

4. It is argued on behalf of the applicant that a similar matter was considered by the Hon'ble Supreme Court in the case of Dwijendra Chandra Sarkar Vs. Union of India & Ors., AIR 1999 SC 598, in which the Apex Court directed that the services rendered in Rehabilitation Department/Mana Camp shall be treated for the purposes of grant of OTBP scheme. In one similar matter i.e. OA No. 305/1999, K.K. Roy & Ors. Vs. UOI & Ors., decided on 3rd August, 1999, this Tribunal followed the judgment of the Hon'ble Apex Court referred to above and disposed of the OA to consider the case of the applicants. Hence, the case of this three applicants is fully covered by the judgment of the Hon'ble Apex Court and the order passed by the Tribunal in OA No. 305/1999. The order passed in these cases shall be applicable to the present case.



5. In reply the learned counsel for the respondents vehemently opposed and argued that in the judgment of the Hon'ble Apex Court in Dwijen Chandra Sarkar (supra) does not apply as the scheme of TBOP was introduced in the Department of Post in the year 1983 and the employees of the Department, who had completed 16 years in the basic cadre, were eligible for placing in the next higher grade meaning thereby that length of service of 16 years in a particular grade/cadre is a pre-requisite condition for eligibility in the higher grade. The scheme covers only regular employees of the Department except those category of employees, who were common in other Department. In the said scheme, the employees who had completed 16 years of service in the basic cadre were to be placed in the higher scale. The applicants were not on the cadre strength of the Department till 15.10.90, 1979 and 1977 as they were working in another Department in the grade which were altogether different from that of Postal Assistant and were drawing lower scale till they were absorbed in the Department of Posts. Therefore, the scale of pay drawn by the applicants in Rehabilitation Department cannot be equated with that of scale as applicable to the cadre of Postal Assistant. Thus, the applicant are not entitled to any relief and the present OA is liable to be dismissed.

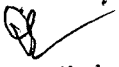
6. After hearing the learned counsel for the parties and on careful perusal of the judgments and records of the case, we find that the order passed in OA No. 305/1999 (supra) and in a similar OA No. 407/2000, Smt. Manju Das Vs. UOI & Ors., decided on 15th July, 2002 shall be applicable to the present case. All these orders are passed on the basis of the judgment passed by the Hon'ble Apex Court in Dwijen Chandra Sarkar's




case (supra). We have perused the reliefs claimed by the applicants. Since the applicants have moved a representation as stated by them in para 6.7 of the OA and which is yet not decided by the respondents, the ends of justice would be met if we direct the respondents to pass necessary orders in the light of the aforesaid judgment of the Hon'ble Supreme Court and in the light of the orders passed by the Tribunal in OA No. 305/99 in OA No. 407/2000 and and/to count the past service of the applicants spent in Rehabilitation Department for the purpose of granting OTBP scheme to the applicant, on the representation of the applicants within a period of two months from the date of receipt of a copy of this order. We do so accordingly.

7. Accordingly, the Original Application stands allowed.

No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

पुस्तक सं ओ/न्या. जलपुर, दि.....
पत्तिलिपि अयोधित:-

- (1) सचिव, उच्च न्यायालय बार एग्जामिनेशन, जलपुर
- (2) आवेक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्षी श्री/श्रीमती/शु.....के काउंसल
- (4) वंशपाल, को.प्र.अ., जलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

Shri S Paul M-CTB
Shri S A Phandhan
MCTB

उपे रजिस्ट्रार

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