

27

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH  
CHANDIGARH**

**Filed on: 25.03.2014**

**Reserved on: 09.05.2016**

**Pronounced on: 11.5.2014.**

**OA No. 060/00274/2014**

**Coram:** Hon'ble Mr. Justice L.N. Mittal, Member(J).  
Hon'ble Mrs. Rajwant Sandhu, Member(A).

Des Raj son of Sh. Sadhu Ram, age 57 years, working as Assistant in the office of Debt Recovery Tribunal – II, Chandigarh, Zonal Office, PNB House, Sector 17, Chandigarh.

.....Applicant

**By Advocate : Sh. D.R. Sharma**

Versus

1. Union of India through Secretary, Ministry of Finance, Department of Financial Services, New Delhi.
2. The Debt Recovery Tribunal-II, Chandigarh, Zonal Office, PNB House, Sector 17, Chandigarh through its Registrar.

.....Respondents

**By Advocate : Sh. Ram Lal Gupta**

**ORDER**

**By Hon'ble Mrs. Rajwant Sandhu, Member(A):-**

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- “8. (ii) Impugned Circular dated 13.03.2014 (Annexure A-1) be quashed and set aside in the interest of justice.
- (iii) That respondents be directed to carry out the exercise of making promotions to the post of Section Officer, in a time bound manner.
- (iv) That the respondents be directed to consider and promote the applicant by taking his 8 years service w.e.f. 28.1.2004 in the light of DOPT OM No. 20011/1/2000-Estt.D dated 27.3.2001, w.e.f. 28.01.2012.
- (v) That the letter dated 05.08.2013 be quashed, in the interest of justice.

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- (vi) That applicant be held entitled to pay of the post of Section Officer which he held from 04.01.2010 to 05.08.2013.
- (vii) That applicant be held entitled to all consequential benefits/reliefs in the interest of justice including the interest @ 18%."

2. It is stated in the OA that the applicant joined as LDC in 1977 in Regional Institute of Cooperative Management, Chandigarh under National Council for Cooperative Training, New Delhi, and was promoted as Assistant vide order dated 18.12.2003 in the pay scale of Rs. 5500-175-9000 (Annexure A-2). The applicant applied in response to circular issued by respondent No. 2, and was selected for the post of Assistant/Research Assistant on deputation basis in the pay scale of Rs. 5500-175-9000 in the Debts Recovery Tribunal – II, Chandigarh (DRT-II) vide order dated 29.1.2007 (Annexure A-3). He joined DRT-II on 14.2.2007 initially for a period of one year, but the same was extended from time to time upto three years (Annexure A-4). During the extended period of deputation, DRT-II Chandigarh, absorbed the applicant as Assistant/Research Assistant on 16.12.2009 (Annexure A-5) on the recommendations of the Selection Committee of the DRT-II and after obtaining NOC from his parent organization.

3. It is further stated that on repatriation of Section Officer, Sh. Surender Kumar, to his parent department, the post of Section Officer fell vacant and the applicant being senior most Assistant, was placed as In-Charge Section Officer w.e.f. 04.01.2010 (Annexure A-7). The applicant also discharged the duties of DDO vide order dated 12.3.2010. Vide letter dated 3.4.2012, the applicant requested respondent No. 2 to promote him as Section Officer on regular basis w.e.f. 28.1.2012 as he had been working as In-Charge Section Officer since 4.1.2010 and fulfilled the eligibility criteria for the post of Section Officer (Annexure A-8). However, instead of promoting the applicant as regular Section Officer, respondent No. 2 vide order dated 5.8.2013, withdrew the order dated

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4.1.2010, after a period of three years and seven months during which period the applicant functioned as In-Charge Section Officer (Annexure A-9). Now, instead of filling the post of Section Officer on regular basis through promotion, the respondent No. 2 was seeking to fill the post through deputation vide impugned circular dated 13.3.2014 (Annexure A-1) circulated in this regard. Hence this OA.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicant was absorbed in the service of DRT-II on 16.12.2009 as Assistant/Research Assistant. His date of absorption in DRT was treated as his date of appointment as the applicant's parent department was National Council for Cooperative Training (NCCT) which is an autonomous body and not a Central Government department. The applicant was designated as Section Officer In charge in compelling and emergent circumstances. There were no guidelines of the Government to allow him the pay of Section Officer during the period that he was designated as such. Moreover, order dated 4.1.2010 (Annexure A-7) was passed by an incompetent authority without the authorization of the competent authority and the applicant could not derive any benefit from the same. The judgement of Patna Bench of this Tribunal dated 2.4.2013 in OA No. 559/2009 titled as Prabhu Singh Vs. UOI & Ors. has also been cited to show that the applicant did not fulfil the eligibility criteria for being promoted as Section Officer on regular basis in 2014 when the impugned circular (Annexure A-1) was issued. Later, an additional/supplementary written statement was filed wherein it had been stated that as per the statutory rules notified in exercise of powers conferred by clause (a) of Sub Section (2) of Section 36 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, by Central Government regulating the conditions of service/method of recruitment of Group 'A' and 'B' (Gazetted) and Group 'B' (Non-Gazetted) posts in the DRT, Chandigarh, known as Debts

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Recovery Tribunal, Chandigarh Group 'A' and 'B' (Gazetted) and Group 'B' (Non-Gazetted) posts Recruitment Rules, 2001 (Annexure R-5) the post of Section Officer is to be filled in as under:-

1	2	3	4	5	6	7	8	9
Section Officer	1*(One) (2001) *Subject to variation depending on workload	General Central Service Group 'B' Gazetted Non-Ministerial	Rs. 6500-200-10500	Not applicable	Not applicable	Not applicable	Not applicable	No
10	11	12						
Two Years	By Promotion/deputation	<p><b>Deputation:</b></p> <p>(i) Officers in Central Government or State Government or in Courts holding analogous posts on regular basis and having a degree from recognized University, or</p> <p>(ii) With eight years regular service in the scale of Rs. 5500-175-9000 or equivalent having a degree from recognized University.</p> <p><b>Desirable:</b></p> <p>Preference will be given to persons having experience in legal or judicial work.</p> <p><b>Note 1 :-</b> Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other organization/department of Central Government should ordinarily not exceed three years.</p> <p>(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications)</p> <p><b>Note 2 :-</b> Departmental Assistants with eight years regular service shall also be considered along with outsiders and in case the departmental candidate is selected, the post will be treated to have been filled up by promotion.</p>						

The applicant did not fulfil the eligibility criteria for appointment as Section Officer in DRT-II on account of inadequate service.

5. In the rejoinder filed on behalf of the applicant, it has been stated that the judgement dated 2.4.2013 of the Patna Bench of this Tribunal (Annexure R-3) was per incuriam as perusal of the DOPT OM referred to in para 4 of the judgement, would show that vide OM dated 27.3.2001 (Annexure A-15), DOPT had substituted the words "whichever is later" occurring in OM dated 29.5.1985 with "whichever is earlier".

18

6. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter and stated that the short question for consideration in this case was whether the period of service rendered by the applicant preceding his absorption in the post of Assistant had to be taken as regular service for the purpose of promotion to the next higher post. Learned counsel stated that the applicant was working as Assistant in the NCCT in the pay scale of Rs. 5500-175-9000 since 28.01.2004. He joined DRT-II on 29.1.2007 in this very pay scale and when the impugned circular of 13.3.2014 was issued inviting applications of eligible candidates for filling the post of Section Officer alongwith other posts, the applicant already had eight years service in the pay scale of Rs. 5500-175-9000 and hence, was eligible for promotion as Section Officer. There was no need for the respondents to fill this post by deputation when an eligible candidate who fulfilled the eligibility criteria for promotion was available within the organization. Learned counsel also stated that he was not pressing for relief as sought vide para 8(v) of the OA. Learned counsel also cited judgements delivered by Ernakulam Bench of this **Tribunal in K.V. Peter vs. UOI & Ors. in OA No. 45 of 2008 and Regi K. George Vs. UOI & Ors. in OA No. 592 of 2009** that related to the promotions in the DRTs. He stated that as per these judgements, it had been held that the stand of the respondent department that only the service rendered after absorption in the DRT can be considered as regular service for promotion had been rejected. Learned counsel also referred to the decision by the Apex Court in the case of **K. Madhavan v. Union of India, (1987) 4 SCC 566** in this regard.

7. Learned counsel for the respondents pressed that the applicant joined the DRT-II only on 14.2.2007. Earlier, he was working in the NCCT which was an autonomous organization and his service there could not be counted as Central Government service while the rules required eight years of regular service for a

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32

person to be eligible for promotion as Section Officer. If the service of the applicant was to be counted from February, 2007, he would become eligible for promotion as Section Officer only in February, 2015. Learned counsel also stated that till date no action had been taken by the respondents to fill the post of Section Officer as per circular dated 13.3.2014(Annexure A-1).

8 We have given our careful consideration to the matter. The DRT rules state that for coming on deputation as Section Officer, officers in Central Government or State Governments or in Courts holding analogous posts on regular basis and having a degree from recognized university or with eight years regular service in the pay scale of Rs. 5500-175-9000 or equivalent with a degree by a recognized university would be eligible. It is also stated that departmental Assistants with eight years regular service shall also be considered along with outsiders and in case the departmental candidate is selected, the post will be treated as filled by promotion. The applicant being an employee of DRT-II could not apply as a deputationist and hence, the eligibility criteria of eight years regular service in the scale of Rs. 5500-175-9000 which he was drawing since 2004 could not be applicable to him. The applicant had to come through the route of promotion. The judgements cited by learned counsel for the applicant only support his case to the extent that the service rendered by the applicant with DRT-II prior to his absorption is to be counted while determining his eligibility for the post. The applicant joined DRT-II on 14.2.2007 and ~~would~~ complete eight years service as Assistant on 13.2.2015. Since his previous service was with NCCT which is an autonomous organization and cannot be equated with service with the Central Government/State Government/Court, the earlier service cannot be counted. The applicant was thus not eligible for promotion as Section Officer and his challenge to the Vacancy Notification circular dated 13.3.2014 (Annexure A-1) is without substance and the same is rejected.

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33

9. However, since we have concluded that the applicant completed the qualifying service as Assistant for promotion to the post of Section Officer in February, 2015, it is only fair that the respondents may consider the applicant for promotion as Section Officer as there was clear intention to fill the post due to which this post was included in the Vacancy Notification of 13.3.2014. Action in this regard may be taken in the shortest possible time frame since the applicant is due to superannuate on 31.5.2016. The promotion, if allowed, would only have prospective effect and hence the relief sought vide paras 8(vi) and 8(vii) of the OA is not allowed.

10. The OA is disposed of with these observations. No costs.

**(RAJWANT SANDHU)**  
**MEMBER(A)**

**(JUSTICE L.N. MITTAL)**  
**MEMBER(J)**

Dated: 11.5.2016.  
**ND\***