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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/01135/2014

Pronounced on : 13.8.2015

Reserved on : 11.08.2015

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)**

Bhupinder Singh S/o Sh. Baldev Singh R/o H. No. 76, Sector 13,
Defence Colony, Village Tundla Ambala Cantt. (Haryana)

.....Applicant

BY ADVOCATE: **MR. J.K. GOEL**

VERSUS

1. Union of India through Ministry of Labour & Employment for Women Development, New Delhi.
2. The Director Women Training, Shram Shakti Bhawan, DGE&T, New Delhi.
3. Deputy Director of Training (D.T.), DGE&T, New Delhi.
4. Principal Regional Vocational Training Institute for Women, G.T. Road, Panipat (Haryana).
5. Head of Department/Principal NVTI, Noida.

.....Respondents

BY ADVOCATE: **MR. RAM LAL GUPTA**

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. Earlier, the applicant had filed OAs No. 060/00310/2014 & 060/00803/2014. These were dismissed as





withdrawn with liberty to file afresh. The present OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking relief as follows:-

- (i) To declare the order dated 29.10.2014 as null and void
- (ii) To fix the seniority of the applicant w.e.f. 12.09.2002 alongwith all consequential benefits under Old Pension Scheme.

2. Averment has been made in the OA that the applicant applied for the post of LDC in 1999 in response to advertisement issued by the Staff Selection Commission (SSC). The final result of the examination was declared in the Employment News dated 23-29th March, 2002 and the applicant was selected for the post of LDC. Vide letter dated 12.9.2002, the SSC recommended the case of the applicant to the Regional Vocational Training Institute for Women, Hissar for appointment as LDC (Annexure A-1). The applicant persistently requested the Principal, Regional Vocational Training Institute for Women, Hissar to allow him to join his duties, but he was informed telephonically that there was a ban on the appointment in the RVTI (W), Hissar. The applicant submitted representation dated 12.09.2003 before respondent No. 4 vide receipt No. 1341 dated 22.09.2003 requesting the authorities that

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his dossier which was received at RVTI, Hissar be returned to SSC Chandigarh to consider him for posting as per preference given by him in his application form. Vide letter dated 31.10.2003, the Deputy Director of Training accordingly requested the Principal, RVTI Hissar to return the dossiers of the applicant to SSC, Chandigarh (Annexure A-2). The respondent No. 4/Principal in view of the letter dated 31.10.2003, returned the dossiers vide letter dated 11.11.2003 to the office of Deputy Regional Director, SSC, Chandigarh (Annexure A-4). Thereafter, the Dy. Regional Director vide letter dated 24.11.2003 stated that the applicant was selected and appointed against vacancy reported by the authorities and as per the instructions issued by DOPT, the ban on recruitment was not applicable on 99 posts (Annexure A-5). The Principal, RVTI then requested Director (Training), New Delhi vide letter dated 3.12.2003 (Annexure A-6) to revive the post and allow him to issue appointment letter to the applicant. Ultimately, the respondent authorities issued memorandum dated 04.02.2004 regarding the appointment offer of the applicant (Annexure A-7).

3. The applicant then requested the authorities to consider his date of joining w.e.f. 12.9.2002 when the Staff

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Selection Commission issued the dossiers and recommended the applicant for appointment to the post of LDC. However, his request in this regard was ignored and since the New Pension Scheme had been introduced w.e.f. 01.01.2004, the applicant was being treated as covered under this Scheme and held not entitled to pension. The respondent authorities finally replied to his representation regarding claim for seniority and consequential benefits vide letter dated 29.10.2014 rejecting the same (Annexure A-15).

4. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It has further been stated that the post against which recommendation for appointment of the applicant was made, was under economic ban. As soon as recommendation was received by SSC Chandigarh, the matter was taken up by the competent authority to lift the ban so that appointment may be given to the applicant. The applicant was issued appointment letter immediately after revival of the post. The applicant joined duty on 9.2.2004. As per New Pension Scheme of Central Government, the employees who have joined Central Government Service on

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and after 01.01.2004 are considered under New Pension Scheme. Further, order dated 29.10.2014 has been issued by the competent authority after considering the request of the applicant and as rules did not permit the same, this was rejected.

5. No rejoinder has been filed on behalf of the applicant.

6. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant narrated the background of the matter. He stated that the applicant was entitled for appointment as Clerk well before 01.01.2004 which was the cut-off date for coverage under the New Pension Scheme. He stated that since the delay in the appointment of the applicant as LDC was solely on the part of the respondent department, the applicant was entitled to seniority from the back date and also entitled to pensionary benefits under the Old Scheme.

7. Learned counsel for the respondents reiterated the content of the written statement.

8. We have given our careful consideration to the matter. From the material on record, it is clear that the delay in the issue of appointment letter in favour of the applicant was due to the changing stand of the respondent department. Initially, the

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department had notified the vacancy of LDC to the SSC, but when the dossier was received by the Principal of the RVTI(W), Hissar, the applicant was informed that there was a ban on filling the posts, although it was clarified almost a year later that the ban did not apply to the post against which the name of the applicant had been recommended for appointment. In this view of the matter, the respondents are directed to treat the applicant as having joined as LDC in the RVTI Hissar on notional basis w.e.f. 01.10.2002. The applicant shall not be paid for the period for which he had not worked as LDC, but shall be entitled to seniority and pay fixation benefits from this date. Consequently, he shall also be treated as covered under the Old Pension Scheme as his notional date of joining shall be prior to 1.1.2004. OA is disposed of accordingly. No costs.

(RAJWANT SANDHU)
MEMBER(A)

(SANJEEV KAUSHIK)
MEMBER(J)

Dated: 13.8.2015
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