

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.906/2012

Date of CAV:28.08.2018.

Date of Order :31.08.2018.

Between :

M.Ramachandra Rao, s/o M.V.Chalapathi Rao,
Age: 45 yrs, Occ:Accounts Clerk-cum-Typist,
Incharge District Youth Co-ordinator,
Nehru Yuva Kendra Sangathan,
6-2-16, Subash Nagar, Nizamabad.

...Applicant

And

1. The Union of India, rep., by its Secretary,
Director to govt. Of India, M/o Youth Affairs &
Sports, C-Wing, Shastri Bhavan, New Delhi.

2. The Director General, Nehru Yuva Kendra Sangathan,
Core-4, 2nd Floor Scope, Minar Complex,
Lakshminagar District Centre, Vikas Marg, New Delhi.

3. The Zonal Director, Nehru Yuva Kendra Sangathan,
3-6-190, Hyderguda, Himayathnagar, Hyderabad.

4. The Director (Personnel), Nehru Yuva Kendra Sangathan,
Core-4, 2nd Floor Scope, Minar Complex,
Lakshminagar District Centre Vikas Marg,
New Delhi.

... Respondents

Counsel for the Applicant
Counsel for the Respondents

... Mrs.S.Anuradha,
... Mrs.K.Rajitha, Sr.CGSC

CORAM:

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORDER

(As per Hon'ble Mrs.Naini Jayaseelan, Member (Admn.))

Brief facts of the case:

The applicant was appointed in Nehru Yuva Kendra Sangathan (NYK) as Accounts Clerk-cum-Typists (ACT) in 1988. While he was working as ACT, an office order No.ZD-AP/Nzb-addl. Charge/2008-09, dated 01.04.2009 was issued by the Zonal Director ordering him to discharge the duties of District Youth Co-ordinator (DYC), NYK, Nizamabad. The order clearly stated that these arrangements are made temporarily until further orders. Subsequently, by office order dated 09.07.2012, all officials who were holding charge of DYC were reverted to their respective substantive posts with immediate effect and accordingly, the applicant was reverted back as ACT. Aggrieved by the said orders, the applicant filed the present OA.

2. On 06.08.2012, this Tribunal, as an interim measure, directed the respondents to maintain status-quo in respect of continuation of the applicant as on that date and the same was extended from time to time.

3. The learned counsel for the Applicant has prayed for setting aside the order dated 09.07.2012 stating that even the benefit under the revised Pay Band-III was granted to five DYC's Incharges.

4. It is the contention of the learned counsel for the Respondents that the applicant was not appointed as a DYC and was only asked to hold the charge of the post of DYC purely on a temporary arrangement for a short duration of time. It was argued that a junior officer can be asked to perform routine duties of higher post in the existing scale and without any extra remuneration, however, this arrangement does not confer any claim/right on the officials to continue in the officiating arrangement in the higher grade. It was also stated that withdrawal of charge of a higher post from the applicant cannot be seen as a "reversion" to his substantive post. It was also contended that the appointments to the post of DYC can be made only as per the provisions of the extant Recruitment Rules. Also, the vacant post of DYCs are required to be filled up on an All India basis since the post has All India transferability on the basis of approved Recruitment Rules for the post. The learned counsel for the Respondents also cited the orders passed by the Central Administrative Tribunal, Patna Bench in OA.No.01/2015, dated 2.6.2017, and the Jabalpur Bench in OA.No.655/2012, dated 17.07.2015, in support of his contentions.

5. We have perused the orders passed the Coordinate Benches of this Tribunal.

6. The question that is to be decided is whether the applicant has any legal right to continue as DYC when the original order clearly stated that the same would not confer on him any right for regularization as DYC.

7. The Patna Bench of this Tribunal in OA.No.01/2015 has held as follows:

“15. As per the settled law, no order for promotion can be given against departmental rules and to a post to which an employee is not eligible. No direction can be given to the authorities to continue an employee to a higher post to which he was not eligible, just because in the past he was given officiating charge of the post. Therefore, there is nothing wrong in the reasoned order passed by the authorities.”

8. The Jabalpur Bench of this Tribunal in OA.No.655/2012 has held as follows:

“7. After having thoroughly gone through the pleadings raised by the parties, we find that the applicant was substantive holder of the post of Accounts-Clerk-cum-Typist and consequent upon the recommendations of the DPC held on 8.7.2014 for promotion to the post of Junior Accountant (PB-1 5200-20200 with Grade Pay of Rs.2800) he was promoted as Junior Accountant vide order dated 29.8.2014. Even though during the interregnum the applicant might have got benefit of MACP on higher scale, but his status as Accounts Clerk-cum-Typist/Junior Accountant cannot be altered, till he is regularly promoted to higher posts in terms of the relevant recruitment rules. The fact of the matter is that the applicant has been promoted as Junior Accountant with Grade Pay of Rs.2800 vide order dated 29.8.2014, thus as on date he has not put in more than one year regular service in the grade pay of Rs.2800/-, whereas he is asking for regular promotion on the post of District Youth Coordinator, which is in Pay Band-3 Rs.9300-34800 with Grade Pay of Rs.5400/-. As per the recruitment rules for promotion to the post of District Youth Coordinator 3 years service in the post carrying grade pay of Rs.4600/- is required or

officers holding post carrying Grade Pay of Rs.4200/- with 8 years regular service in the grade are eligible. Since the applicant has not put in even one year regular service in the grade of Rs.2800/- he cannot be eligible for promotion to the post of District Youth Coordinator in the GP of Rs.5400/-. In this view of the matter, we do not find any merit in the claim made by the applicant in the instant Original Application. Accordingly, the relief sought for in this Original Application cannot be granted.”

9. Having heard the learned counsel on both sides and their pleadings as well as the orders passed by the Coordinate Benches of this Tribunal, we find that the applicant is only a substantive holder of the post of ACT and cannot claim to continue as DYC on an incharge basis.

10. The OA is accordingly dismissed. No costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

Dated: this the 31st day of August, 2018

Dsn.

