



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/1441/2015
MA 350/141/2017

Date of order : 26.4.2017

Present: Hon'ble Mr. A.K.Patnaik, Judicial Member

1. SWAPAN DAS & ORS.

S/o Late Priya Nath Das,
Working as AAO/GM(PAA),
Kolkata,
R/o 102A, Muchipara Road,
P.O.-Paschim Putiary,
Kolkata - 700041.

2. Jhumpa Bose,

D/o Late Hemtosh Kumar Nath,
Working as AAO,
R/o 10/C Chandi Ghosh Road,
P.O. Regent Park,
Kolkata - 700040.

3. Samar Kumar Mitra,

S/o Late Bibhuti Bh Mitra,
Working as AAO,
R/o 926 J.N.Bose Road,
P.O. - Kodalia, P.S.- Sonarpur,
Dist.- South 24 Pgs.,
Pin - 700146.

4. Susanta Bandhu Majumder,

S/o Late Jitendra Bandhu Majumder,
Working as AO,
R/o 37B Bagbazar Street,
Kolkata - 700053.

5. Nirmal Kumar Sen,

S/o Late Brindaban Chandra Sen,
Working as AAO,
R/o 245/3 Rafi Ahmed Kidwai Road,
Kolkata - 700055.

6. Ramen Chandra Naskar,

S/o Late Gopal Chandra Naskar,
Working as AAO,
R/o - Vill. Amtala, P.O. Kanyanagar,
Dist. - 24 Parganas (South),
Pin - 743398.

7. Kumar Mitra,

S/o Late Rabindra Nath Mitra,
Working as AAO,
R/o 12 Galiff Street,
Kolkata - 700033.

APPLICANTS.

VERSUS

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1. Union of India,
Through the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi - 1.
2. The Director (Budget),
Ministry of Communications,
Dept. of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi - 1.
3. The Asst. Director General
(PA-Admin),
Dept. of Posts,
West Bengal Postal Circle,
P-36, Chittaranjan Avenue,
Yogayog Bhavan,
Kolkata - 700012.
4. The Secretary,
DOPT, Govt. of India,
Ministry of Personnel,
Public Grievances & Pensions
(Dept. of Personnel & Training),
3rd Floor,
Lok Nayak Bhavan,
Khan Market,
New Delhi - 110003.
5. Amar Nath Dey,
Working as Sr. Accountant,
Under General Manager,
Postal Accounts & Finance,
West Bengal Postal Circle,
Kolkata - 700012.
6. Uma Shankar Chakraborty
7. Uday Narayan Roy
8. Sunil Chandra Biswas

...RESPONDENTS.

For the applicant : Mr.A.Chakraborty, counsel

For the respondents: Mr.P.Mukherjee, counsel

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O R D E R (ORAL)A.K.Patnaik, J.M.

Heard Mr.A.Chakraborty, Id. Counsel appearing for the applicants and Mr.P.Mukherjee, Id. counsel appearing for the departmental respondents.

2. This OA has been filed by the applicants challenging inaction and/or non-action on the part of the respondent authorities, under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) An order do issue directing the respondents to step up the pay of the applicants at par with the junior, Private Respondent No.6 w.e.f. 22.12.2003 and to fix their pay accordingly and also to pay the arrears including revision of pension. The official got promotion to the cadre of Asst. Accounts Officer but was S.A. as on 22.12.2003, they should also come under preview of this case.
- b) Leave may be granted to add the applicants in the OA jointly under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

3. According to Mr.Chakraborty, the sum and substance of the grievance of the applicants is that they were initially appointed as LDC. Thereafter through departmental examination, they were promoted to the post of Junior Accountant. However, after restructuring of Postal Accounts, 80% post of Junior Accountants including non-functional selection grade of Senior Accountants were upgraded w.e.f. 1.4.1987. Accordingly they were promoted to the post of Senior Accountants and common seniority list was prepared. Subsequently all the applicants retired from service

The grievance of the applicants is that they have been denied the benefits under the ACP scheme on the ground that they had joined as LDC and had already got two promotions in their cadre namely to the post of Junior Accountant and then as Senior Accountant whereas those who had joined in the department as direct recruits to the post of Junior Accountant and were given only one promotion to the level of Senior Accountant were given the benefit of ACP scheme and placed in the higher grade. Due to such denial the private respondent No.6 who was junior to the applicants, has been stated to be drawing more salary.

4. Mr.Mukherjee, Id. Counsel for the respondents submitted that in the meantime he has already filed the reply statement which is on record and that the respondents have validly rejected the prayer made by the applicant as stated in the reply.

5. On being questioned regarding filing rejoinder Mr.Chakraborty fairly submitted that though a representation was preferred by the applicants, it was dealt by the respondents in a

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very lackadaisical manner. Hence the applicant has approached this Tribunal for a direction to make a comprehensive representation pinpointing the judicial position which shows that the seniors are entitled to step up of their pay as a general rule. Mr.Chakraborty submitted that in the rejection order the respondents have taken the ground that as the applicants were not members of the Union, the judgment so rendered was/is not applicable to them.

6. However, on prayer made by Mr.Chakraborty, I dispose of this application at the admission stage by granting liberty to the applicants to make individual representations addressed to respondent No.5 within a period of 3 weeks and if any such representation is preferred within 3 weeks, the respondent No.5 may consider the same as per rules and regulations in force and dispose it of by passing a well reasoned and speaking order and communicate the same to the applicant within 3 months from the date of receipt of this order.

7. Though I have not expressed any opinion on the merit of the matter and all the points raised in the representations are kept open for the said respondent No.5 to consider the same as per the rules and regulations in force and keeping in mind the well settled position of law regarding applicability of the judgments in case of the applicants, still then I hereby direct that after such consideration if the applicants' grievance is found to be genuine then expeditious steps may be taken within a further period of 2 months from the date of such consideration to extend those benefits to the applicants.

8. With the aforesaid observation and direction the OA is disposed of as withdrawn at the admission stage itself. No costs.

9. As prayed for by Mr.Chakraborty, the applicants will be at liberty to annex the copy of this order in such individual representations and a further copy of this order be handed over to Mr.Mukherjee, Id. Counsel for the respondents.

(A.K.PATNAIK)
MEMBER (J)

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