

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. OA 350/01461/2015

Date of order : 29.4.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

PRADIP KR. MODAK

VS

UNION OF INDIA & ORS.

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mr. P. Sharma, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. The applicant in this OA has prayed for quashing of an office order dated 8.1.14 issued by Sr. Superintendent of Post Offices, Midnapore Division, whereby and whereunder the date of effect of temporary status to the applicant has been granted from 22.11.13 instead of 6.5.11 the date on which the order withdrawing the temporary status granted to him earlier was issued. Further the applicant has sought for a direction upon the respondents to treat such temporary status from 6.5.11 till 6.11.13 with all consequential benefits including refixation of pay from 1.1.03 in the minimum of pay scale of Group 'D' with DA, HRA, CCA etc.

3. Counsels were heard and materials on record were perused.

4. It was noted that on 3.9.12 this Tribunal in OA 432/12 filed by this applicant Pradip Kumar Modak, quashed the impugned order dated 6.5.11 "with all consequential benefits" taking a view that the Hon'ble High Court in WPCT 204/12 had held that once an order dated 6.5.11 was held to be illegal in OA 554/11 and quashed, no liberty should have been granted to the

respondents to pass a fresh order. The said order was binding upon the Tribunal as legal precedent.

5. It was argued that in view of the decision rendered in WPCT 204/12 the respondents were bound to treat the applicant as on temporary status continuously from the earlier date of 1.1.03 ignoring the order dated 6.5.11, with all consequential benefits.

6. It could be noted that the order passed in OA 432/12 travelled to the Hon'ble High Court in WPCT 394/13 at the hands of the respondents. The said WPCT was dismissed. Therefore there was no occasion for the respondents to treat the applicant as having earned temporary status from 22.11.13, the date on which the Hon'ble High Court for a second time passed an order in the matter affirming the decision of this Tribunal in OA 432/12 that the order dated 6.5.11 being illegal no liberty was available to the respondents to pass a fresh order.

7. Accordingly I would hold that the respondents have misdirected themselves in granting temporary status afresh from the date of the judgment of the Hon'ble High Court which simply affirmed the decision of this Tribunal to consider the order dated 6.5.11, taking away the benefit of temporary status, as illegal and quashed with no liberty to pass a fresh order. A bare perusal of the orders enumerated hereinabove would lead to an obvious conclusion that the applicants are to be deemed to continue on temporary status w.e.f. 1.1.03 as they were conferred with on 8.10.03, till the present date with all consequential benefits in accordance with law.

8. The respondents are directed to treat the applicants as such for all consequential benefits they would be entitled to as per law.

9. Let appropriate order be issued within two months from the date of receipt of the copy of this order.

10. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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