

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: CALCUTTA
(Circuit at Port Blair)**

OA No.85/AN/2013
MA No.34/AN/2013
OA No.89/AN/2013

Date of order: 08.04.2016

Present:

The Hon'ble Mr. Justice V.C.Gupta, Judicial Member
The Hon'ble Ms. Jaya Das Gupta, Administrative Member

OA No.85/AN/2013

P.G.PONNAMMA
V/S
SOCIAL WELFARE (A&N ADMN.)

OA No.89/AN/2013

G.SALOMA NETTO
V/S
SOCIAL WELFARE (A&N ADMN.)

For the Applicant :Mr.R.Singh, Counsel
For the Respondents :Mr.N.A.Khan, Counsel

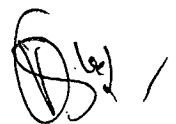
O R D E R (Oral)

JUSTICE V.C.GUPTA, JM:

Heard the learned counsel for both sides and
perused the records.

2. These two matters are analogous and, therefore,
they are being disposed of by this common order.

3. The Applicant in OA No. 89/AN/2013 (Ms.
G.Saloma Netto) was working as a Grama Sevika and the



Applicant in OA No. 85/AN/2013 (Ms. P.G.Ponnamma) was working as a Craft Instructor in a Project known as Boarder Area Project (in short BAP).

It is not in dispute that Ms. Netto was appointed in the project on 27.7.1984 and continued to discharge her duties as such till the date of her superannuation on attaining the age of sixty years. She continued to serve in another project known as ICDS Katchal (with CPDO Car Nicobar) w.e.f. 04/01/2007.

Ms. P.G.Ponnamma, the Applicant in OA No. 85 of 2013 was appointed on 07/06/1983 as Craft Instructor in BAP. She also continued to work as such till her superannuation on attaining the age of 60 years. She was also deployed in ICDS, Katchal.

Both of them were appointed on adhoc basis from time to time by various orders with some artificial breaks of few days and they continued to work till their superannuation on attaining the age of retirement.

4. Earlier, the Project known as BAP was being financed by the Central Social Welfare Board as well as State Social Welfare Board. Later on the Central Government withdrew their share and subsequently, the project was wound



up and the employees were taken up under the Director of Social Welfare of the State.

5. There is one more employee, namely Bipula Biswas who was working on such ad hoc basis as Grama Sevika was also superannuated on attaining the age of sixty years but she was granted pension. According to the Respondents her service was regularized. But no such order of regularization is on record. However, it is not in dispute that Ms. Bipula Biswas was initially appointed on ad hoc basis later than the applicants in BAP and is getting pension after her retirement.

It is the contention of the Respondents that Ms. Biswas was regularized against 50 posts available under the Social Welfare Department and only 9 employees who are working in the project could not be regularized and these two applicants are within the 9 who could not be regularized due to non availability of posts.

6. The grievance of the Applicants is that while regularizing the services of other similarly situated employee of the BAP, they were deployed in another project known as ICDS. It has been contended by the learned Counsel for the Respondents that those 50 persons were regularized against



50 posts and the applicants could not be regularized due to ban imposed on the open recruitment. It was further contended that as the posts were not available nine persons could not be regularized.

7. We have gone through the pleadings of the parties as well as the written statement submitted by the learned counsel for the applicants and perused the records.

8. The main grievance of the applicants is that while regularizing the services of other similarly situated employees of DAP, the authorities acted arbitrarily by way of adopting pick and chose method, according to their wish and fancy. No norms were adopted while regularizing the services of the employees of the project inasmuch although the date of appointments of the applicants was prior to the date of appointment of Biswas the Respondents regularized the service of Biswas ignoring their cases. Why it was done so has not been brought on record. But the exercise made by the Respondents, prima facie shows it is a case of discrimination which is not only in violation of Articles 14 and 16 of the Constitution of India but also shocks the confidence and conscience of the public at large by the act of the public authorities which are expected to do the things in a just fair and transparent manner. As we are short of material for



issuing positive direction to the Respondents, we are of the considered view that the matter should be sent back to the Respondents to do complete justice to the applicants and other similarly situated persons also. We are not aware whether apart from aforesaid 50 posts, other posts were available for the purpose of regularization of the employees working under the project. We are also not aware on which date the ban on recruitment was imposed and when it was lifted. We do not have any information as to whether when the service of Biswas was regularized the ban was operating or not. As Biswas is not a party to this OA, we refrain from making any comment on the regularization of Biswas.

9. Under the circumstances, we direct the Respondents to consider the case of the applicants for conferment of the similar benefits which had been given to Biswas.

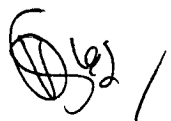
10. While parting with this case, we would make it clear that while regularizing the service of the employees of a particular project the rule of seniority ought to have been adhered to unless and otherwise, it is so prohibited by any statutory rules. Normally promotion/regularization are done either on the basis of seniority cum merit or merit cum seniority



or solely on the basis of merit. But what was the criterion adopted by the authorities is not known to us.

10. Under the above circumstances, this OA is disposed of with the following directions:

- (i) The Director (Social Welfare), Andaman & Nicobar Administration is directed to consider the regularization of the Applicants and all other similarly situated persons within a period of four months from the date of communication of this order on the date of their retirement;
- (ii) Upon consideration, if their services are regularized then the dues to which the applicants shall be entitled as per rules viz; pension and pensionary dues including leave encashment etc should be paid to them within a period of two months thereafter;
- (iii) In any event, decision which shall be taken as directed above shall be communicated in a



well reasoned order to the applicants within
the aforesaid period.

11. There shall be no order as to costs.

(Ms. Jaya Das Gupta)
Admn. Member

(Justice V.C. Gupta)
Judicial Member

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