

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/803/2018

Date of decision: 02.05.2019

(Reserved on: 13.03.2019)

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

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Anju Sem W/o Sh. V.K. Sem, aged 60 years, R/o House No.92, Saravmangal Cooperative Society, Lohgarh Road, Zirakpur, District Mohali, Punjab-134117.

**... APPLICANT
VERSUS**

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi-110011.
2. The Registrar General and Census Commissioner, Government of India, Ministry of Home Affairs, 2/A, Mansingh Road, New Delhi-110011
3. Director, Census Operations, Haryana, Jangan Bhawan, Sector-19, Chandigarh-160019.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

ORDER

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MRS. P. GOPINATH, MEMBER (A)

1. Applicant was appointed as Draftsman on ad-hoc basis on 15.3.1980. Services of the applicant were regularized as Draftsman on 3.3.1984. Applicant was promoted as Artist in the pay scale of Rs.5000-8000 (425-700) in the year 1991 and retired from service on 30.9.2016. 6th CPC merged the posts of Draftsman (pay scale Rs.5000-8000) and

Senior Draftsman (pay scale Rs.5500-9000) as Senior Draftsman in the pay scale of Rs.9300-34800/- with Grade pay Rs.4200/-. As per MACP Scheme, promotion granted to the applicant as Artist in the pay scale of Rs.5500-9000, therefore, became redundant as per para 5 of the MACP Scheme.

2. Prayer of the applicant is for treating adhoc service as regular service and count it for the purpose of grant of ACP/MACP. In support of her contention, applicant cited judgment passed by the C.A.T. Bombay Bench in the case of **Suresh Kumar & Anr. vs. Secretary, Ministry of Shipping and Ors.** decided on 29.11.2010 and **Lekh Raj, Assistant Compiler vs. Union of India & Ors.** decided on 10.4.2015.
3. Respondent in the written statement submit that Annexure A-9 on which the applicant has placed reliance pertains to regularization of a System Compiler whereas applicant in the instant O.A. was appointed to the post of Draftsman and is therefore not similarly placed, being appointed in a different cadre. Respondent also argues that the applicants case cannot be equated with that of J.K. Braham Bhat (Draftsman), whose services were regularized in the light of order in Special Civil Application No.11754 of 2004 decided on 3.7.2014. The said post of Draftsman in which the applicant was engaged was not available in the establishment of the respondent at the time of initial adhoc appointment of the applicant on 26.12.1980 in C.O. Haryana. The applicant retired from service on September 2016, but seeks regularization of adhoc service w.e.f. 15.3.980 after 38 years. The O.A. is also hit by delay.
4. Heard learned counsel for the parties and perused written submission.

5. Similar matter has been recently been considered by the coordinate Bench of the Tribunal in Kolkata in O.A. No.351/00148/2011 decided on 15.02.2018, wherein similar prayer to treat adhoc service as regular service was made and also for counting adhoc service for the purpose of ACP + Pension. Also in another O.A. No.60/1062/2016 titled **Ashwani Kumar vs. UOI & Ors.** decided on 25.10.2018, this Bench in para no.27 pronounced that adhoc service cannot be counted for purpose of ACP/MACP.
6. The coordinate bench of the Tribunal at Calcutta had passed an order in OA No. 351/00148/2011 and two other similar matters on 15.02.2018 on a similar matter having a bearing on this OA. In this OA, applicants were seeking counting of their service rendered on ad hoc basis before their regularization for the purpose of ACP and pensionary benefits. The Bench, while delivering the order, highlighted the CAT Calcutta larger Bench order in the same matter which was upheld by the High Court and by the Apex Court. Whereas this judgment has been drawn from various judgments of the Apex Court, paras 11 & 13 which adequately cover the case under consideration in this OA are reproduced as below:-

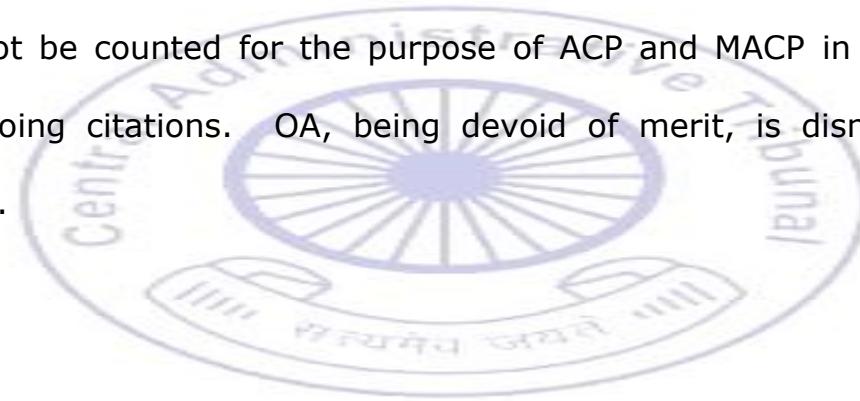
"11. In the case of **State of Haryana V. Haryana Veterinary & AHTS Association & Anr. reported in 2000 (8) SCC 4**, Their Lordships have analyzed the expression of "regular service" and have observed that services rendered on the basis of ad hoc appointment made dehors the recruitment rules although without interruption followed by regular appointment, held, not includable. In the instant case also the service was on ad hoc basis and cannot be treated as regular basis till the appointments were regularized subsequently.

12. xxxxxxxxxxxxxxxxxxxxxxx

13. In view of catena of the decisions and authoritative pronouncement of Hon'ble Supreme Court there is hardly any scope for this Bench to take a different view, contrary to views expressed by highest Court of the land. So the pivotal issue raised at the

outset can be answered to the effect that service rendered by the applicants on ad hoc basis cannot be treated as regular service for the purpose of ACP. Hence, the reference is answered accordingly. Since there is hardly any matter left to be adjudicated in the original applications, to avoid further delay, we dismiss all the OAs having no merit as the applicants were fighting on a wrong notion not oblivious of their right and legal proposition and apart from the legal backdrop, there is nothing wrong in the 1999 circular of DOPT calling for interference at this end which is followed uniformly throughout India for the last 15 years. In the peculiar circumstances no costs is awarded."

7. The issue in this OA is also of counting ad hoc service for the purpose of ACP/MACP. Since an order of the five judge larger bench of the Tribunal covers this matter which has been upheld by the Hon'ble High Court and Hon'ble Supreme Court, this Bench would also go by the same pronouncement. The service rendered on ad hoc basis cannot be counted for the purpose of ACP and MACP in view of the foregoing citations. OA, being devoid of merit, is dismissed. No costs.



**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Date:

Place: Chandigarh.

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