

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O.A.No.260/00414/2017

Date of Reserve:16.01.2019
Date of Order: 29.01.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Bairagi Charan Barik, aged about 54 years, S/o. Late Lachhaban Barik, Present R/o: Type-2/5, CPDO Campus, Nayapalli, Bhubaneswar-751 012, At present working as Poultry Attendant in Central Poultry Dev. Organization (ER), Nayapalli, Bhubaneswar.

...Applicant
By the Advocate(s)-Mr.B.Parida

-VERSUS-

Union of India represented through:

1. The Secretary to the Govt. Of India, Ministry of Agriculture, Department of A.H., Dairying & Fisheries, Krishi Bhawan, New Delhi-110 001.
2. The Dy. Secretary to the Govt. Of India (Admn.III), Ministry of Agriculture, Department of A.H., Dairying & Fisheries, Krishi Bhawan, New Delhi-110 001.
3. The director, central Poultry Dev. Organization (ER), Nayapalli, Bhubaneswar-751 012.

...Respondents

By the Advocate(s)-Mr.S.B.Mohanty

ORDER

PER MR.SWARUP KUMAR MISHRA, MEMBER(J):

Applicant is presently working as Poultry Attendant in the Central Poultry Development Organization (ER), Bhubaneswar. His grievance is directed against non-consideration of his promotion to the post of Poultry Assistant. Aggrieved with this, he has filed the present O.A. praying for the following reliefs:

"Direct the respondents to grant the departmental promotion in favour of the applicant to a post of Poultry Assistant with all consequential service benefits thereof within a stipulated period of time as fixed by this Hon'ble Tribunal".

2. Brief facts leading to filing of this O.A. are thus : Applicant entered service as Poultry Attendant, which is a Group-D post, in the year 1981. In the meantime, he has completed about 35 years of service in that grade without being promoted to the higher grade in the hierarchy. Ventilating his grievance, he had submitted representation dated 13.02.2017 (A/6) following by a reminder to the Deputy Secretary to Government of India (Admn.III), Ministry of Agriculture & Farmers Welfare, Department of A.H., Dairying & Fisheries, New Delhi and since no reply was received, he has moved this Tribunal in this O.A. praying for the reliefs as mentioned above.

3. Opposing the prayer of the applicant, respondents have filed a detailed counter. According to Respondents, as per the existing Recruitment Rules, 66. 2/3% of the posts of Poultry Assistant are to be filled by Direct Recruitment and 33.1/3% by way of promotion from the existing Poultry Attendants based on their seniority and suitability. Further, they have submitted that the ratio between the Direct Recruit and Promotee from amongst the Poultry Attendant to the post of Poultry Assistant is 2 : 1. At present, out of 2 sanctioned strength, one post of Poultry Assistant is lying vacant which comes under Direct Recruitment Quota. Therefore, it is the case of the respondents that in case the claim of the applicant is considered for promotion to the post of Poultry Assistant, it will operate against the Recruitment Rules.

4. Heard the learned counsels for both the sides and perused the records. We have also perused the rejoinder filed by the applicant and the reply by way of Affidavit thereto filed by the Respondents.

5. From the pleadings of the parties, it is an admitted position that the applicant during his service career of about 35 years has been granted 1st and

2nd financial upgradations under the ACP Scheme including the 3rd financial upgradation under the MACP Scheme being placed in PB (Rs.5200-20200 with Grade Pay of Rs.2400/-) with effect from 13.11.2011. In this connection, it is to be noted that the very object of ACP or MACP Scheme, as the case may be, is to give financial upgradation to the employee(s) who stagnates in a particular cadre/grade without availing any chance of promotion. Therefore, even if the applicant has not been promoted throughout his service career of about 35 years, his interest has been well protected by granting him 3rd financial benefit under the MACP Scheme on completion of 30 years service. At the same time, we would like to note that one cannot claim promotion as a matter of right. However, an employee has a right to be considered for promotion and this right has to be exercised and established within the four corners of rules governing the field. The Respondents by filing an Affidavit to the rejoinder have brought to the notice of the Tribunal that after restructuring of Poultry Unit by the Government of India, Ministry of Agriculture, Department of Animal Husbandry and Dairying (R/1) dated 19.6.2003 the existing posts of Poultry Assistants is 2. Since it is an admitted position that out of two sanctioned strength, one post is now occupied by one B.C.Patra and the another vacancy which arose with effect from 30.11.2016 due to retirement on superannuation of one S.N.Barik, Poultry Assistant and is still vacant is required to be filled through Direct Recruitment Quota, the applicant cannot lay any claim for consideration of his promotion against that vacancy de hors the recruitment rules.

6. We have considered the rival submission given our anxious thoughts to the arguments advanced by both the sides. From the discussions held above, we are of the opinion that the respondents have rightly substantiated and

established their stand point that the existing one post of Poultry Assistant needs to be filled by way of Direct Recruitment Quota and not by promotion as claimed by the applicant.

7. In the result, the O.A. is held to be without any merit and the same is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)
BKS

(GOKUL CHANDRA PATRI)
MEMBER(A)

