

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00013/2019

Date of Order: This, the 22nd day of January 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Sri Krishnendu Mukherjee
Son of Late Kanan Kumar Mukherjee
Resident of House No. 43
N.E. Guest House, Hemgiri Path
South Sarania, Ulubari, Guwahati
Pin – 781007, Dist – Kamrup (Metro), Assam.

...Applicant

By Advocates: Ms. P. Chakrabarty & Ms. A. Das

-Versus-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Finance
Department of Financial Services
Banking Division, Jeevan Deep Building
3rd Floor, Sansad Marg
New Delhi – 110001.
2. Joint Secretary (DRT)
To the Govt. of India
Ministry of Finance
Department of Financial Services
Banking Division, Jeevan Deep Building
3rd Floor, Sansad Marg
New Delhi – 110001.

...Respondents

3. Sri Shibatosh Banerji
Registrar, DRT-2, Kolkata
7th Floor, Jeevan Sudha Building
42C, Jawaharlal Nehru Road
Kolkata – 700071.
4. Sri Dipankar Dutta
Registrar, DRT-3, Kolkata
8th Floor, Jeevan Sudha Building
42C, Jawaharlal Nehru Road
Kolkata – 700071.
5. Smti. Sonali Moitra
Registrar, DRAT Kolkata
9 Old Post Office Street
Kolkata – 700001.

...Proforma Respondents

O R D E R (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

Being aggrieved with the action of the respondents for filling up all the vacant posts of Registrars at Debts Recovery Tribunal (DRT in short) and Debts Recovery Appellate Tribunal (DRAT in short) at Kolkata by way of deputation, the applicant has preferred the instant O.A. under Section 19 of the Central Administrative Tribunals Act, 1985 seeking the following main reliefs:

8. i. Applicant seek setting aside and quashing of the impugned office memorandum dated 31.07.2018 and 20.09.2018 for filling up of the vacancies of Registrar on deputation

(Annexure- A-I, A-II & A-III respectively) are being vitiated for not year making the vacancies to be filled up by promotions and for not holding DPC for promotion under the existing service rules, 2018.

- ii. To set aside and quash all the subsequent orders dated 26.12.2018 filling up the vacancies of Registrar in DRT-2 and DRT-3 Kolkata pursuant to impugned advertisement dated 31.07.2018 and 20.09.2018 and extension of period of deputation of the incumbent to the post of Registrar in DRAT, Kolkata.
- iii. To direct the respondents constitute DPC for promotion pursuant to the guidelines at Annexure – A-IX as in Office Memo dated 08.05.2017 and office memo dated 23.03.2018 (Annexure-A-X) forthwith and consider the applicant for promotion for the post of Registrar to any of the posts of Registrar located in DRTs or DRAT located at Kolkata.
- iv. Direct the respondents to year mark of at least one post of Registrar in any of the DRTs, DRAT located at Kolkata to be filled up on promotion.
- v. In the alternate the applicant prays for his transfer at Kolkata in the post of Recovery Officer having completed more than 5 years of posting at North East Region."

2. Ms. P. Chakraborty, learned counsel appearing on behalf of the applicant submits that applicant is presently serving as Recovery Officer at Debts Recovery Tribunal (DRT in short) on his transfer on promotion to Guwahati w.e.f. 15.07.2013. It was submitted by Ms. Chakraborty that as per the service condition applicable to the Central Government employees, he is entitled to transfer to his place of choice after

serving 3 years in the North East Region continuously which was kept pending for decision by the respondents ever since 17.11.2016. In the meantime, the Recruitment Rules applicable to the applicant was amended on 08.06.2018 under which 50% of the posts are to be filled up on promotion failing which same may be filled up on deputation and rest 50% by way of deputation. According to the learned counsel for the applicant, qualifying service for being eligible for promotion to the post of Registrar is 5 (five) years in the feeder cadre.

3. Learned counsel for the applicant further submitted that applicant was eligible for promotion as on 15.07.2018. However, the department instead of year marking the vacancy to be filled up by promotion issued the impugned notifications dated 31.07.2018 and 20.09.2018 for filling up the post of Registrar on deputation basis. The applicant had legitimate expectation of being considered for promotion and he was assured of the same. However, all three (03) vacant posts of Registrar at Kolkata are being filled up by way of deputation in blatant violation of the Recruitment Rules and without considering the promotion of eligible candidates. Being aggrieved with the action of the respondent authorities, the applicant made representation on 19.12.2018 with a request for

consideration of his promotion before filling up the vacant post by way of deputation. According to the learned counsel, said representation dated 19.12.2018 still remains pending.

4. We have heard the learned counsel for the applicant and perused all the documents annexed there in the O.A. From the perusal of records and documents, it is noted that the respondents had issued appointment letter to the private respondents by posting them as Registrars on deputation basis. Since the applicant is also demanded that he is also eligible for promotion to the post of Registrar having qualifying service in the feeder cadre and is also entitled to be posted at Kolkata on completion of 5 years of service in North East Region, hence we deem fit and proper to send back the matter to the respondent authority to take decision on the representation dated 19.12.2018 made by the applicant.

5. In view of the above, without going into the merit of the case and without issuing notice to the respondents, in the interest of justice, we direct the respondents more particularly respondent No. 2 i.e. Joint Secretary (DRT) to the Govt. of India, before whom representation made by the applicant is pending, to consider and dispose of the pending

representation dated 19.12.2018 in accordance with Recruitment Rules dated 08.06.2018 within a period of one month from the date of receipt copy of this order.

6. It is made clear that whatever order to be passed by the respondent No. 2 should be reasoned and speaking and be communicated to the applicant forthwith.

7. With the above directions, O.A. stands disposed of accordingly at the admission stage. There shall be no order as to costs.

(N. NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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