

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00307/2018

Jabalpur, this Tuesday, the 30th day of April, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Uday Shankar Prasad Sinha, S/o Late Raghubir Prasad Sinha, R/o A-35, Kasturi Homes, Katara Hills, Near Pride City, Bhopal – 462026, presently posted as Assistant Registrar, National Green Tribunal, Central Zonal Bench, Bhopal, Mob.9451845796.

-Applicant

(Applicant in person)

V e r s u s

1. Debts Recovery Tribunal, 9/2A, Panna Lal Road, Allahabad through its Presiding Officer – 211002.

2. Ministry of Finance, Financial Services, Govt. of India through its Under Secretary, Jeevan Deep Building, Parliament Street, New Delhi - 110001

- Respondents

(By Advocate – Shri D.S. Baghel)

ORDER (REASONED)

By Navin Tandon, AM.

The applicant, through this Original Application is praying for treating his promotion from Steno Grade-C to Private Secretary w.e.f. 2010 instead of 2017 when he has been granted promotion.

2. The brief undisputed facts of the case are as under:

2.1 The applicant was a regular staff of Bihar State Electronics Development Corporation (BSEDC), Patna.

2.2 He joined Debts Recovery Tribunal (hereinafter referred to as 'DRT') on deputation. On the basis of No Objection Certificate (NOC) issued by BSEDC, the applicant was absorbed as Steno Grade-C in DRT vide office order dated 07.06.2002 (Annexure - 4).

2.3 The genuineness/manipulation of the NOC issued by the BSEDC was subject to several enquiries from the year 2004 to 2015.

2.4 The applicant was issued with a chargesheet under Rule 14 of the CCS (CCA) Rules, 1965 on 31.05.2016 (Annexure R-5). The Disciplinary Authority vide order dated 07.01.2017 (Annexure R-6) exonerated him from all the charges.

2.5 Subsequently, he was promoted as Private Secretary w.e.f. 22.03.2017 (Annexure - 24).

2.6 The respondents vide letter dated 04/05.10.2010 (Annexure – 22) have communicated that consequent on completing eight years of regular service, process for his promotion to the post of P.S. is being initiated.

3. The applicant has sought for the following reliefs:

“8. RELIEF PRAYED

The applicant prays of the following reliefs:-

- a. To quash the Office Memorandum dated 30.11.2017 whereby Respondent no.1 denied the representations of the applicant for treating his promotion in accordance with OM of DoPT dated 14.09.1992 and offer letter dated 04/05.10.2010 of Respondent No.1.
- b. To declare the action of respondents for withholding the MACP and PROMOTION at the stage of Preliminary/Fact Finding Inquiry against the guidelines of DoPT as illegal, arbitrary and unconstitutional.
- c. To direct the respondents to treat the promotion w.e.f. 01.01.2010 or from the date of offer letter of Respondent no.1 dated 04/05.10.2010 (Annexure -) or from the date, 01.11.2010 when a much junior staff by giving promotion to the post of Steno Gr. C had been brought at par with the applicant.
- d. To direct the respondents to fix the accountability upon the officials for mis-presenting and mishandling the case.
- e. To allow the OA with costs.
- f. To pass such other and further orders which their lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

4. The applicant, through MA No.200/507/2019, has attached a final seniority list of officers in the grade of Private Secretary as on 29.08.2018 (Annexure P-1), wherein the applicant is at Sr. No.4

(regular appointment since 22.03.2017) and one Shri Arun Kumar Dwivedi is at Sr. No.5 (regular appointment since 01.07.2017).

4.1 Shri Arun Kumar Dwivedi had approached our coordinate Bench at Lucknow through OA No.254/2018. It has been brought out in the O.A 254/2018 that Shri Arun Kumar Dwivedi had completed eight years of service as Stenographer Grade-C and was eligible for promotion to the Private Secretary w.e.f. 01.08.2009. Meanwhile, one Wasi Ahmad had filed an Original Application No.283 of 2008 challenging the seniority list. Vide order dated 16.09.2008, the Lucknow Bench of this Tribunal restrained the respondents from issuing any regular promotion order till disposal of the O.A. The O.A No.283 of 2008 was dismissed on 07.05.2016 and then Shri Arun Kumar Dwivedi was promoted as Private Secretary on 01.07.2017. The claim of Shri Arun Kumar Dwivedi was that he is entitled for promotion from 2009.

4.2 Placing reliance in the matters of **Asis Kumar Samanta & others vs. State of West Bengal & others** in CA No. 1331 of 2001 decided on 4.9.2014, our coordinate Bench at Lucknow in OA No.254 of 2018 has directed the respondents therein to consider the case of Shri Arun Kumar Dwivedi for appointment to the post of Private Secretary w.e.f. the date he became eligible in

the year 2010. If he is found eligible for such promotion, he be given the benefit on notional basis only, and he would be entitled for pay and allowances w.e.f. 01.07.2017 only.

4.3 Ministry of Finance vide letter dated 21.01.2019 (Annexure P-3) has decided to implement the order of the Lucknow Bench in OA No.254 of 2018 in favour of Shri Arun Kumar Dwivedi.

5. It is seen that there is no mention of the interim order passed by the Lucknow Bench of the Tribunal in OA No.283/2018 in the reply filed by the respondents.

6. The respondents have submitted that in the intervening period, no DPC was held to promote others to the post of Private Secretary. In the DPC meeting held on 31.10.2012 (Annexure R-7), the DPC Members decided to defer the selection procedure to the post of Private Secretary.

7. The issue of promotion w.e.f. 2010, the date when the candidate becomes eligible for consideration of promotion to the post of Private Secretary has already been decided by our coordinate Bench at Lucknow in the case of Arun Kumar Dwivedi in O.A. No.254 of 2018. Therefore, maintaining the same ratio, we allow this Original Application and direct the respondents to

consider the case of the applicant for appointment to the post of Private Secretary w.e.f. the date when he became eligible in 2010. If he is found eligible for such promotion, he be given the benefit on notional basis only, and he would be entitled for pay and allowances w.e.f. 22.03.2017 only. This exercise should be completed within a period of 60 days from the date of receipt of a certified copy of this order. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-