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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CALCUTTA BENCH.

O. A. No. - 350/1463/2015

DETAILS OF THE APPLICATION:

PARTICULARS OF THE APPLICANT:

Shri Swapan Kumar Mishra, son of Late Hari Pada Mishra, aged about 51 years, working as Chowkidar under Jalchak Sub-Post Office, residing at Vill & P.O. Jalchak, Dist. Paschim Medinipur, Pin No- 721101.

... Applicant.

-V E R S U S-

PARTICULAR OF THE RESPONDENTS:

1. Union of India through the ~~Secretary~~ Ministry of Communication, Department of Posts, Dak Bhavan, New Delhi-100 001.
2. The Chief Post Master General, Yogayog Bhavan, C.R. Avenue, Calcutta-700 012.
3. The Superintendent of Post Offices, Medinipur Division, Dist. Purba Medinipur. 721101

... Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CALCUTTA BENCH.

O.A. No. 350/1465/2015

DETAILS OF THE APPLICATION:

PARTICULARS OF THE APPLICANT:

Shri Ashish Kumar Santra, son of Late Ranjan Kumar Santra, aged about 54 years, working as Chowkidar under Hour Sub-Post Office, Purba Medinipur residing at Vill. & P.O. Hour, Dist. Purba Medinipur, Pin No- 721131.

... Applicant.

-V E R S U S-

PARTICULAR OF THE RESPONDENTS:

1. Union of India through the Secretary Ministry of Communication, Department of Posts, Dak Bhavan, New Delhi-100 001.
2. The Chief Post Master General, Yogayog Bhavan, C.R. Avenue; Calcutta-700 012.
3. The Superintendent of Post Offices, Medinipur Division, Dist. Paschim Medinipur. 721301

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

Date of Order: 05.12.2018

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

O.A/350/1463/2015

Swapan Kumar Mishra Vs. UOI & Ors.

For the Applicant(s): Mr. A.Chakraborty & Ms. P.Mondal, Counsel

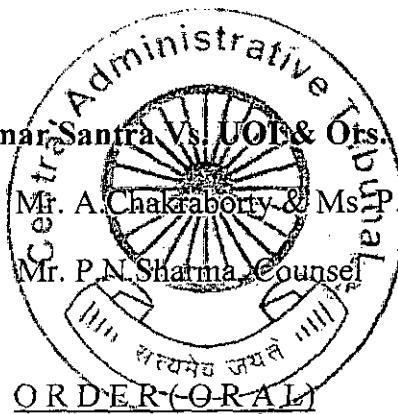
For the Respondent(s): Mr. P.N.Sharma, Counsel

O.A/350/1465/2015

Ashish Kumar Santra Vs. UOI & Ors.

For the Applicant(s): Mr. A.Chakraborty & Ms. P.Mondal, Counsel

For the Respondent(s): Mr. P.N.Sharma, Counsel



Bidisha Banerjee, Member (J):

Ld. Counsel were heard and materials on record were perused.

2. Since identical facts have been pleaded and the applicants are identically aggrieved, both the O.As., i.e. O.A.Nos. 1463 and 1465 of 2015, were taken up for hearing analogously and a common order is passed. The facts in O.A.No. 1463/2015 is delineated as under:

3. This application has been filed in order to seek the following relief:

"a) Office Order dated 08.01.2014 issued by the Sr. Superintendent of Post Offices, Midnapore Division, Midnapore-721101, is bad in law and therefore, the same may be quashed.

b) An order do issue directing the respondents to treat the applicant as Casual Labour with Temporary Status for the period from 06.05.2011 till 06.11.2013 and to grant all consequential benefits.

c) An order do issue directing the respondents to grant the benefits of increment at the same rate as applicable to the Group 'D' employees. He should be treated at par with temporary Group 'D' employee.

d) An order do issue directing the respondents to fix the pay of the applicant with effect from 01.01.2003 on the basis of minimum of pay scale of Group 'D' official including D.A., H.R.A., C.C.A. and to grant all consequential benefits including arrears.

e) Costs and incidentals.

f) Such further order/orders.

4. Omitting unnecessary details, the case of the present applicant, Mr.

Swapan Kumar Mishra, is that he was engaged in the year 1992 as Chowkidar in Jalchak Sub Office. In the year 2003 he was conferred with temporary status vide order dated 08.10.2003, which benefit was taken away by an order dated 06.05.2011. Upon challenge, the order dated 06.05.2011 was quashed with all consequential benefits in O.A.No. 431/2012, heard analogously with O.A. Nos. 428, 429, 430, and 432 of 2012, (5 applicants in the said O.As.). The Order of this Tribunal dated 03.09.2012, when assailed before the Hon'ble High Court in W.P.C.T. No. 378/2013, was affirmed on 07.11.2013. Instead of restoring the position w.e.f. 06.05.2011, when the temporary status was taken away, the

Respondents issued a memo dated 08.01.2014 (Annexure-A/3) restoring the temporary status w.e.f. 07.11.2013, i.e. the date of decision of the Hon'ble High Court. Aggrieved, one Shri Pradip Kumar Modak approached this Tribunal in O.A.No. 1461/2015. The said O.A. was disposed of on 29.04.2016 with the following orders:

“6. It could be noted that the order passed in OA 432/12 travelled to the Hon'ble High court in WPCT 394/13 at the hands of the respondents. The said WPCT was dismissed. Therefore there was no occasion for the respondents to treat the applicant as having earned temporary status from 22.11.13, the date on which the Hon'ble High Court for a second time passed an order in the matter affirming the decision of this Tribunal in OA 432/12 that the order dated 6.5.11 being illegal no liberty was available to the respondents to pass a fresh order.

7. Accordingly I would hold that the respondents have misdirected themselves in granting temporary status afresh from the date of the judgment of the Hon'ble High Court which simply affirmed the decision of this Tribunal to consider the order dated 6.5.11, taking away the benefit of temporary status, as illegal and quashed with no liberty to pass a fresh order. A bare perusal of the orders enumerated hereinabove would lead to an obvious conclusion that the applicants are to be deemed to continue on temporary status w.e.f. 1.1.03 as they were conferred with on 8.10.03, till the present date with all consequential benefits in accordance with law.

8. The respondents are directed to treat the applicants as such for all consequential benefits they would be entitled to as per law.

9. Let appropriate order be issued within two months from the date of receipt of the copy of this order.”

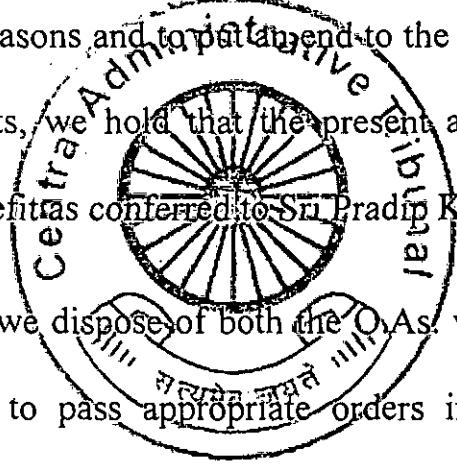
Pursuant to the aforesaid directions, benefit of such order was granted to the said applicant, Sri Pradip Kumar Modak, which Ld. Counsel for

the Respondents very fairly admitted at the Bar. Ld. Counsel for the applicant, therefore, would seek identical orders as granted to Sri Pradip Kumar Modak, in favour of the present applicant.

5. We considered the implications of the orders passed in the case of Sri Pradip Kumar Modak. Since irrefutably and indubitably, the present applicants stand on the same footing as Sri Pradip Kumar Modak and Sri Pradip Kumar Modak has been granted temporary status w.e.f. the date it was taken away vide a memo dated 06.05.2011 and the memo dated 06.05.2011 was quashed, for parity of reasons and to put an end to the discrimination meted out to the present applicants, we hold that the present applicants would also be eligible to the same benefits as conferred to Sri Pradip Kumar Modak.

6. Therefore, we dispose of both the O.A.s. with a direction upon the Respondent authorities to pass appropriate orders in favour of the present applicants as extended to Sri Pradip Kumar Modak, within two months from the date of receipt of copy of this order. No costs.

(Dr. Nandita Chatterjee)
Member (A)


(Bidisha Banerjee)
Member (J)

RK/PS