

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00976/2018Date of Order:- 28 -Nov-2018**C O R A M**

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. B.V.SUDHAKAR, MEMBER (ADMN.)

.....

Kanhaiya Kumar, aged about 48 years, S/o Late Surendra Kumar Verma, R/o E-3/8D, SAIL City Complex, New Pundag, PO- SAIL City, PS-Pundag O.P., Ranchi-834 007.

.....Applicant.

By Advocate:- Mr. Anil Kumar, Sr. Adv;
Mr. Abhishek Kumar.

Vs.

1. Union of India through the Secretary, Ministry of Finance, Department of Financial services, New Delhi.
2. Debts Recovery Appellate Tribunal, Allahabad through its Registrar, having its office at 147-A/58/1, Jawaharlal Nehru Road, Tagore Town, Allahabad (UP).
3. Registrar, DRT, 5th Floor, Pratap Sadan, Kutuchery Chowk, Ranchi-1.

.....Respondents.

By Advocate:- Mr. H.K.Mehta, Sr. Standing Counsel.

O R D E R (ORAL)**Per B.V.Sudhakar, Member (Admn.):**

2. The OA is filed for not correcting the date of appointment of the applicant in the grade of Private Secretary in the seniority list prepared by the 2nd respondent.

3. The brief facts of the case are that the applicant joined the respondent organisation as Steno 'C' on 03.05.2002 on deputation basis. The applicant was absorbed permanently in the respondent organisation w.e.f. 21.01.2004. The DPC met on 10.07.2007 and

considered the applicant for appointment on deputation to the post of Private Secretary. The DPC recommended him for promotion after due consideration of the facts on record. However, the applicant was not given any offer of appointment. The applicant represented to various authorities but of no avail. Finally, the competent authority on due examination of the relevant records promoted the applicant to the post of Private Secretary notionally w.e.f. 10.07.2007 i.e. the date on which the DPC met to consider his case for promotion to the post of Private Secretary. Thereafter, the competent authority in continuation of the order of promotion dated 28.02.2013 fixing the effective date of promotion as 10.07.2007 to the post of Private Secretary has made corrections in the service record accordingly and communicated the same to the Ministry of Finance. The respondents also have granted MACP to the grade of Private Secretary w.e.f. 10.07.2017 i.e. after completing ten years of regular service in the grade of Private Secretary. The Department of Financial Services under Ministry of Finance vide letter dated 05.07.2018 has sought the list of eligible Sections Officers and Private Secretaries for considering them for promotion to the post of Assistant Registrar. The 3rd respondent vide letter dated 09.07.2018 provided the said information indicating that the applicant was holding the post of Private Secretary from 10.07.2007 along with vigilance clearance and Annual Performance Appraisal Report. The 2nd respondent prepared a provisional seniority list of Sections Offices and Private Secretaries under its jurisdiction and vide letter dated 26.07.2018 forwarded this

to the first respondent. However, in the said list the appointment of the applicant in the grade of Private Secretary was wrongly shown as 28.02.2013, instead of 10.07.2007. Due to this wrong entry the applicant will lose the opportunity for promotion to the post of Assistant Registrar. Hence, applicant made a few representations to the concerned authority but the date was not corrected and hence, the present OA has been filed.

4. The contention of the applicant is that when he has been notionally promoted to the post of Private Secretary on 10.07.2007 his seniority shall be counted from 10.07.2007. Based on the same he was also granted MACP which is a proof of his being regularly appointed to the post of Private Secretary on 10.07.2007. The 3rd respondent has taken up this issue with the concerned Ministry vide email dated 03.10.2018 and 22.10.2018 with a request for making necessary corrections to the date of appointment of the applicant but the same did not yield any result. The applicant finally contends that he should not be made to suffer the loss of seniority due to the mistake committed at other levels.

5. Heard the learned counsel for both the sides and perused the records submitted.

6. The applicant has submitted an order issued by the respondents dated 22.04.2015 vide Annexure-2/1 wherein it is clearly stated that the date of promotion of the applicant to the post of Private Secretary has been fixed and given effect from 10.07.2007 on

notional basis for the purpose of approved service and fixation of pay. The 3rd respondent has also written to the 2nd respondent vide letter dated 09.07.2018 wherein under category of Private Secretary the name of the applicant was shown to be holding the post of Private Secretary w.e.f. 10.07.2007. The relevant portion of the Service Book of the applicant attached to the OA reads as under:-

“In continuation of order dated 28.02.2013 and 04.03.2014, the date of promotion of Shri Kanhaiya Kumar, in the post of Private Secretary has been modified and given effect to with effect from 10.07.2007 on notional basis for the purpose of approved and regular service and fixation of pay.”

Besides the provisional seniority list of officers in the grade of Private Secretaries as on 25.07.2018 prepared by the second respondent does indicate in the remarks column that applicant was granted MACP on 10.07.2017. The third respondent as late as on 30.07.2018 has informed the second respondent stating that as per service record the date of regular appointment to the grade of Private Secretary is 10.07.2007 in case of the applicant. Therefore, as is seen from the records submitted the applicant has been appointed on notional basis in the grade of Private Secretary on 10.07.2007. The plea of the applicant is that his date of appointment should be corrected as 10.07.2007 instead of 28.02.2013. In view of the facts and the records submitted by the applicant, the respondents are directed to consider making the correction and incorporate the date of regular appointment in the grade of Private Secretary as 10.07.2007 in the seniority list prepared by the second respondent on

25.07.2018. This correction has to be necessarily made so that the applicant can be considered for promotion to the post of Assistant Registrar being the seniormost in the grade of Private Secretary. The respondents are directed to consider making the correction immediately and keep the concerned Ministry informed so that his name could be recommended for promotion to the post of Assistant Registrar.

With the above direction, the OA stands disposed of at the admission stage itself. There shall be no order as to costs.

Sd/-
(B.V.Sudhakar)
Member (Admn.)

Sd/-
(Jayesh V.Bhairavia)
Member (Judl.)

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