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CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH KOLKATA

OA No.350/00681/2015

Dated of order: 09.02.2016

PRESENT:

THE HON'BLE MR. JUSTICE V.C.GUPTA, JUDICIAL MEMBER

THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

SUBHAS CHANDRA ROY

V/S

DEFENCE

For the Applicant :Mr. D.Kundu, Counsel

For the Respondents :Mr.B.P.Manna

Mr.A.K.Chattpadhyay

Counsel

ORDER

JUSTICE V.C.GUPTA, JM:

Heard the learned counsel for both sides and perused

the records.

2. The applicant, after being qualified in the Staff Selection Commission Examination in the year 1976 was appointed as a Lower Division Clerk under AFHQ and posted at New Delhi. He then joined the Indian Coast Guard Service, on deputation basis at District Headquarters Haldia in November, 1981 in which post he was absorbed on 08.06.1984. Thereafter, he was promoted to the post of Civilian Staff Officer on 07.04.2006. The applicant made a representation on 31.01.2012 before the Respondent No.3 for his promotion. The Respondent No.2 recommended and forwarded the said representation of the



applicant to the authority concerned for consideration. The same was rejected. The Applicant retired from service on reaching the age of superannuation on 31.03.2012. Thereafter, he made an application under RTI Act on 13.05.2013 and came to know that his candidature for promotion was not at all considered by the authorities. Aggrieved by the same he preferred OA No. 565 of 2012 before this Tribunal which was disposed of on 28.1.2014.

The relevant portion of the order is quoted below:

"4. We are of the considered opinion that the case has been rejected on the wrong premises of the OM dated 27.10.2005 which is not applicable to the applicant's case and as such the impugned order dated 29.3.2012 deserves to be quashed and is accordingly quashed. The respondents are directed to consider the matter afresh in accordance with law within a period of three months from date and pass an appropriate order. The OA is accordingly disposed of."

3. The order of this Tribunal, cited supra, reveals that

after quashing the order of rejection of the candidature of the applicant, direction was issued to the respondents to consider the matter afresh. In pursuance of the order passed by this Tribunal, the impugned order dated 1st August, 2014 was issued stating therein that while conveying the decision of the UPSC to RHQ (E) vide CGHQ Letter CP/0103 (SCCO) dated 6th March, 2012, the provisions contained in the DoP&T OM as the reason for being not eligible for promotion to the post of SCSO were inadvertently cited in place of DoP&T OM dated 14th August, 2003 and on that premises the candidature of the applicant was considered but rejected once again.



4. It has been contended by the learned counsel for the applicant that while passing the impugned order no opportunity of being heard was afforded to the applicant. The OM of 2003 has not been placed on record. Inability has been shown from the side of the Respondents that ¹⁵⁵ the Respondents ~~the~~ puts an embargo that the applicant cannot be considered for promotion due to his retirement.

5. In view of the above, we are of the view that at least an opportunity of being heard should have been provided to the applicant to substantiate his claim in the light of the changed scenario which the respondents have taken in the impugned order especially when the said plea was not taken before this Tribunal in the earlier OA. Hence, the impugned order deserved to be set aside.

6. Consequently, this OA is allowed, the impugned order is set aside. The applicant is directed to make a comprehensive representation ventilating his grievance within three weeks from the date of receipt of a certified copy of this order to the authority concerned and the said authority concerned is directed to consider and dispose of the said representation, after giving him an opportunity of being heard and communicate the result thereof in a well reasoned order to the applicant within a period of three months from the date of receipt of the representation.



7. This OA is accordingly disposed of. No costs.

JWG
(Jaya Das Gupta)
Admn. Member


(Justice V.C. Gupta)
Judicial Member

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