

LIBRARY

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.1169/2011

Date of order : 8.3.16

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

Hon'ble Mr. P.K. Basu, Administrative Member

RATHINDRA NATH BOSE

VS.

UNION OF INDIA & ORS.
(Court Liquidator)For the applicant : Mr. R. Roy, counsel
Mr. T. Pal, counselFor the respondents : Mr. C.R. Bag, counsel
Mr. B.P. Manna, counsel
Mr. S.K. GhoshORDERPer Mr. P.K. Basu, A.M.

The applicant is a Lower Division Clerk in the Office of the Court Liquidator, Kolkata. He has been issued a notice dated 05/17th June, 2008 intimating that he has been identified for being declared surplus and his name has been referred to the division of re-training and re-deployment in the Department of Personnel and Training for suitable redeployment. The applicant is aggrieved with this order and has filed this O.A. to direct the respondents to cancel and or withdraw this order and reinstate the applicant in the same position with all consequential benefits including promotion and arrears of salaries and allowances and also to implement the order of the Hon'ble Supreme Court dated 27.08.1999 in Civil Appeal No.5642/1994[Government of India & Ors. Vs. Court Liquidator Employees' Association and Others].

2. The applicant has stated the brief history of his case that he was appointed in October, 1988 on a temporary basis as Lower Division Clerk in the Office of the Court Liquidator, High Court, Calcutta. In a matter No.756/1991 the Hon'ble High Court directed the Central Government to absorb all those who had completed 360 days after joining of their services and to pay all benefits, such as, pension etc. The Appellate Court in the Calcutta High Court affirmed this order. The Hon'ble High Court vide order dated 27.08.1999 refused to interfere and directed the authorities to frame a Scheme modeled on 1978 Scheme. In 2001 in WP 211/2001 the Calcutta High Court passed an order dated 26.03.2001 that the respondents

should give effect to the order passed in Matter 756/1991 as affirmed by the Division Bench. This writ was allowed.

3. The Ministry of Finance, Ministry of Economic Affairs thereafter in compliance of the order dated 26.03.2001 in W.P.211/2001 passed an Office Order dated 13th September, 2001 appointing the applicant in the post of Lower Division Clerk on the conditions stipulated by the Hon'ble High Court in Matter No.756/1991.

4. Thereafter the applicant received a letter dated 27.06.2008 issued by the Office of the Court Liquidator, High Court, Calcutta enclosing the letter dated 5th/17th June, 2008 issued by the Ministry of Finance which has been already alluded to earlier.

5. Vide order of appointment dated 23/30.03.2009 the applicant was redeployed as Lower Division Clerk w.e.f. 17.03.2009 in the Directorate General of Commerce, Intelligence and Statistics, Kolkata until further order. It was directed that he would draw pay at the rate of 8550/- and Grade Pay of Rs.1900 in the pay band of Rs.5200-20000.

6. The applicant was granted first ACP on 07.10.2001 and 2nd financial upgradation under MACP on 07.10.2009 vide Office Order dated 25.08.2009. The Respondents replies that the applicant has accepted the offer of appointment vide order dated 30.03.2009. He, thereafter represented his case for ACP/MACP which was granted to him. It is further stated that the applicant is wrongly interpreting the order and judgment of the Hon'ble Supreme Court that by virtue of the said order the petitioner is liable to serve only and only in the Office of the Court Liquidator. The judgment was to give the petitioner and few others status of Government servant which has been given by the Government. Thereafter ACP and MACP benefits have also been given.

7. The Id. counsel for the respondents also quoted the provisions of CCS(Redeployment of Surplus Employees) Rules, 1990 which inter alia states that if a surplus employee is offered alternative placement, but refuses to join such post, his surplus post should be abolished and further redeployment closed and his services terminated. The respondents state that having accepted the offer and joined the new assignment he cannot raise these issues after so many years.

8. The respondents further pointed out that as per the provisions for surplus employees Guidelines(M-2 of reply filed on behalf of Respondent No.5,7 and 8) specifically para 13(a) of which states that surplus staff on redeployment are not entitled to benefit of past service for

purpose of seniority and they will be treated as fresh entrants in their matter of their seniority, promotion etc.

9. Heard Id. counsel for the parties and perused the pleadings.

10. It could be seen that in compliance of the order of the Hon'ble Supreme Court the respondents had appointed the applicant as a Lower Division Clerk in 2001 and he became a Government servant. He was then posted at Court Liquidator's Office, Kolkata. Thereafter on an assessment by the Staff Inspection Unit (S.I.U.) of the Government, he was declared as surplus staff and vide order dated 23/30.03.2009 he was redeployed as Lower Division Clerk w.e.f. 17.03.2009 in Director General's Office of Commerce, Intelligence and Statistics at Calcutta requiring him to move out of Court Liquidator's Office. The applicant's case is that since as per the Supreme Court's order, he was appointed as Lower Division Clerk in the Office of the Court Liquidator, High Court, Calcutta, he cannot be thereafter declared surplus as has been done vide order dated 27.06.2008 and redeployed to another office namely, Director General of Commerce, Intelligence and Statistics and he should be allowed to continue in the office of the Court Liquidator, Calcutta.

11. Per contra, the respondents' case is that Hon'ble Supreme Court's order was implemented and he was appointed as Lower Division Clerk in the Office of the Court Liquidator, Calcutta. Thereafter he has been indentified as a surplus staff. However, he was given the job of LDC in the Office of the Director General of Commerce, Intelligence and Statistics and there has been no arbitrariness, irregularity or malafide on the part of the respondents.

12. We are satisfied that as far as compliance of the Supreme Court's order is concerned, the Department has complied with the same and the applicant has been inducted as a Government servant. Long thereafter, in 2008 a study by the Staff Inspection Unit was done and he was declared as surplus staff but retained as Lower Division Clerk and posted in the Office of the Directorate of Commerce, Intelligence and Statistics. The respondents have explained in their reply that initially the Office of the Court Liquidator was set up in 1954. Thereafter it was broken into two parts, one looking after the liquidation of companies and the other looking after liquidation of banks. In 1989 all posts in the Office of the Court Liquidator were taken over on the rolls of Government of India and the incumbents became regular employees of Government. However, the Staff Inspection Unit was asked to study pursuant to the directions of Hon'ble High Court of Calcutta to assess the actual man power requirement at the present level of workload in the Office of the Court Liquidator, Kolkata and the Staff

Inspection Unit identified 31 posts of LDCs and 5 posts of Peons to be surplus. It is then that Department of Economic Affairs was requested to explore the feasibility of redeploying surplus power in any other Government department in Kolkata. Therefore, it would be clear that steps taken by the Government is not arbitrary or malafide, but based on certain logic and cogent reasons. Therefore, we find no merit in this case. The O.A. is dismissed. There shall be no order as to cost.

~~RENU~~
(P.K. BASU)
Administrative Member

(B. BANERJEE)
Judicial Member

s.b