

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11829 of 2016
Date of Decision: 03.06.2016

UOI & Anr.

... Petitioners

VS.

CAT & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE A.B. CHAUDHARI

Present: Mr. Pankaj Gupta, Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) Union of India through the Ministry of Finance and DRT-II, Chandigarh have laid challenge to the order dated 11.05.2016 (P8) passed by Central Administrative Tribunal, Chandigarh Bench (in short, 'the Tribunal'). Vide this order, the Tribunal has turned down the eligibility-claim of respondent No.2 for promotion to the post of Section Officer by taking into account his previous service as Assistant rendered with the National Council for Cooperative Training, New Delhi (NCCT) but has further directed that since respondent No.2 completed 8 years' service as Assistant on 13.02.2015 after joining DRT-II on 14.02.2007, it would be fair, if the petitioner-authorities consider him for promotion as Section Officer, more-so when he was due to retire on attaining the age of superannuation on 31.05.2016. As may be seen, the Tribunal passed the impugned order hardly two weeks before the retirement of respondent No.2.

(2) We have heard learned counsel for the petitioner at a considerable length and gone through the record.

(3) It is difficult to appreciate as to what has prompted the Authorities to challenge the Tribunal's order. The main controversy was

regarding the claim of eligibility raised by respondent No.2 on the plea that

his service as Assistant in NCCT deserved to be counted towards the eligibility criteria of 8 years' regular service under the Recruitment Rules. That plea has been turned down by the Tribunal saying that the service rendered in an autonomous organization cannot be equated with the service under Central/State Government and thus cannot be counted.

(4) The Tribunal has thereafter observed that since respondent No.2 joined DRT-II on 14.02.2007, he completed 8 years' service as Assistant on 13.02.2015 and since he was retiring, the petitioner-authorities "may consider" him for promotion as Section Officer as there was a clear intention to fill up that promotional post for which the vacancy notification was issued on 13.03.2014.

(5) It is contended that the service rendered by respondent No.2 in DRT-II on deputation from 14.02.2007 till he was absorbed on 16.12.2009 also cannot be counted under the Recruitment Rules.

(6) In our considered view, the issue raised by the petitioners is totally academic. The observations made by the Tribunal in the penultimate paragraph of its order are purely on equitable considerations keeping in view the legitimate expectation of an employee who was retiring after successfully completing his inning with a spotless service career. The authorities ought not to have made it a prestige issue. Their plea that service rendered by respondent No.2 with DRT-II before his actual absorption on 16.12.2009 cannot be counted for the purpose of eligibility appears to be misconceived. The requirement under the Recruitment Rules is 8 years' regular service as Departmental Assistant and once respondent No.2 was brought on deputation through a selection process and was subsequently absorbed, the uninterrupted service rendered by him as a Departmental

Assistant in DRT-II can be counted for the purpose of determining his eligibility. It is not a 'seniority' dispute amongst Assistants where the absorption of respondent No.2 as Assistant would be material. The spirit of Rule is that the incumbent should have 8 years' service experience as Assistant in the Central/State Government Departments which respondent No.2 undoubtedly possessed.

(7) No case to interfere with the order passed by the Tribunal is made out.

(8) Dismissed.

(Surya Kant)
Judge

03.06.2016
vishal shonkar

(A.B. Chaudhari)
Judge