

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2415 OF 2015

Sainath Krishna Parab

...

....Petitioner

V/S

Union Of India And 2 Ors.

...

...Respondents

Ms.Karuna Yadav, i/b. Mr. Narayana Madivala Ganguli For Petitioner.
 Ms.Priyanka Tiwari i/b. Mr. Suresh Kumar, for Respondents.

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CORAM : A.A. SAYED &**PRAKASH D. NAIK, JJ.****DATED : 03 SEPTEMBER 2019****P.C.:**

The Petitioner has impugned the order dated 14-03-2014 of the Central Administrative Tribunal dismissing his O.A. seeking regularization w.e.f.29-11-1988 to the post of Statistical Assistant.

2. In paragraphs 15 & 16 of the impugned order it is observed by the CAT as follows:

“15. We have carefully considered the facts of the case and also the submissions made by both the parties. The undisputed fact in this case is that the applicant was borne in the cadre of UDC subsequently designated as Social Security Assistant. Since he was initially working in a lower scale, on his application he was appointed on deputation to work as Statistical Assistant which carried a higher pay scale. The applicant was sent on deputation on four different occasions

and after each deputation period he had reverted back to the original post of UDC. The applicant claims that the break was for short periods and in his case the cooling off period was not adhered to. This only indicates that he actually derived benefit of higher scale which he could not have, if the cooling of three years was adhered to during each intervening period of deputation. However, the fact remains that it was not a case of uninterrupted period of deputation but with specific breaks in between two deputation periods during which the applicant reverted back to his original cadre. After the 4th deputation which was over on 06-09-2001, he continued to work in the cadre of UDC/Social Security Assistant till he got promotion as Section Supervisor in 2009.

16. As has been pointed out by the respondents the Recruitment Rules for Statistical Assistant is very specific and only permits transfer on deputation. Therefore, when the applicant approached the respondents' authorities seeking regularisation in the cadre of Statistical Assistant in lieu of Head Clerk prior to his completion of 4th deputation as Statistical Assistant, the respondent authorities did not accept the same as the Recruitment Rule does not permit such a regularization. Thereafter on reversion he continued to work in the cadre of Upper Division Clerk for eight long years. After he received regular promotion to the post of Section Supervisor against the seniority quota vacancy from 22-05-2009 he claims regularization of service at par with Section Supervisor from the date of his first appointment. It does not stand to any logic. It

is not a case that the applicant joined the post of Statistical Assistant, worked there continuously and then regularized in that cadre and hence claims the benefit of the services he rendered while on deputation. The orders of Hon'ble Apex Court cited by applicant relates to cases of regularization of adhoc services. We do not feel they are relevant to this particular case where the the applicant went on deputation to an Ex-cadre post and was reverted back after completion of the deputation. Therefore he continues to be borne in his original cadre only, even though he went on deputation to the Ex-cadre post on repeated occasions. The cadre of Section Supervisor and cadre of Statistical Assistant are completely distinct and, therefore, in this case there is absolutely no scope for giving any benefit for the period of service in the deputation post. Simply because the applicant was appointed to the post of Statistical Assistant on deputation basis on several occasions and the post carried same scale of pay as that of the Section Supervisor does not entitle him to claim benefit of regularization in the Ex-cadre post from his first appointment to the said post, more so when provision does not exist."

3. Having heard the learned Counsel for the parties and on perusal of the impugned order, we find no infirmity or illegality in the same. The Petitioner was well aware that he was holding the post of Statistical Assistant by transfer on deputation, which is an ex-cadre post, for a specified period and it would not confer upon him any benefit of seniority or

regular appointment to the post of Statistical Assistant and that he was liable to be reverted to the post of Upper Division clerk without assigning any reason. Admittedly, there were breaks between the deputation periods and the Petitioner was reverted to his original cadre each time after his deputation. The Petitioner is therefore not entitled to count his service in the post of Statistical Assistant for the purpose of his appointment on regular basis to the post as Section Supervisor. Moreover, the claim of the Petitioner is de hors the Recruitment Rules.

4. In the circumstances, the Petition is devoid of merit and is accordingly dismissed.

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)