

03.10.2023
sayandeep
Sl. No. 01
Ct. No. 12

WPCT 195 of 2013

Dilip Kr. Nandi
-Versus-
Union of India & Ors.

Mr. Ujjal Roy
Mr. Ashok Chakraborty
Mr. Arpa Chakraborty

.....for the appellant

Mr. Debanik Banerjee

...for the UOI

The petitioner has approached the Central Administrative Tribunal for the following relief:

- (a) “An order issue direction the respondent to extend the benefit of 2nd ACP of the applicant w.e.f 30.10.2008 with all consequential benefits as his juniors had already got the said benefit.**
- (b) An order do issue directing the respondents to antedate the date of appointment of the applicant w.e.f the date his junior, namely Rakesh Jindal (Srl No. 518) was appointed, i.e. 27-93-1984.”**

According to the petitioner, he was given offer letter on 10.01.1984 and was called upon to submit attestation form duly filled on or before 25.01.1984. According to petitioner, he submitted the attestation form duly filled on 30th June, 1984 and was issued appointment letter on 15th October, 1984. The petitioner claims that he is senior in the merit list in the selection process. His Juniors were appointed on 27th March, 1984 and he claims that his appointment must be antedated to the date of appointment of his juniors that is prior to 27th March, 1984. The petitioner also claims

that after antedating his date of appointment, he must be given second financial up-gradation benefits given to the persons appointed on 27th March, 1984. The Tribunal considering the fact that the petitioner approached the Tribunal after 38 years of his appointment, getting promotion and after getting first financial up-gradation benefits and the Judgment relied on by the counsel for the petitioner rejected the claim of the petitioner and dismissed the OA.

Challenging the said order, the petitioner has come up with the present writ petition.

The main contention of the learned counsel appearing for the petitioner is that regular service for granting ACP is regular service put up by persons for promotion. The Tribunal failed to consider paragraph 3.2 of memorandum dated 09.08.1999 and erred in holding that regular service for grant of promotion is different from regular service for the grant of benefits under scheme of financial up-gradation. The Tribunal on erroneous interpretation of the Judgment relied on by the petitioner, failed to apply the ratio of the Judgment. Learned counsel also submitted that for the fault of the employer for giving appointment belatedly, the employees should not be suffered and prayed for setting aside the order of the Tribunal and allowing the writ petition.

Heard learned counsel for the petitioner and respondent.

From the above materials, it is clear that the petitioner has come up with the present writ petition and claiming relief on the misconception that he is senior to the persons selected in the very same selection process as he was senior in the merit list. The respondent on 10.01.1984 issued an offer of appointment to the petitioner calling upon him to submit the attestation form duly filled on or before 25th January, 1984. For the reasons best known to the petitioner, he submitted the attestation form only on 30th June, 1984. Meanwhile, others were given appointment on 27th March, 1984. After receipt of attestation form on 30th June, 1984, the respondent issued order of appointment on 15th October, 1984. From the above dates of appointment of others on 27.03.1984 and date of appointment letter of the petitioner dated 15th October, 1984, it is clear that petitioner is not senior to the persons appointed on 27.03.1984. Hence, he cannot claim that he is senior to persons who were appointed on 27.03.1984. Hence he cannot claim that his date of appointment has to be antedated that too after 28 years at the time of filing of OA now 38 years after enjoying promotion and first financial up gradation benefits based on his date of appointment on 15.10.1984. The Tribunal has considered above facts in proper perspective and also by giving valid reason for distinguishing the Judgments relied on by the counsel appearing for the petitioner

rejected the claim of the petitioner and dismissed the OA. There is no reason to interference with the order of the Tribunal.

For the above reasons, the writ petition fails and dismissed.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)