

(2019) 01 CAT CK 0042

In the Central Administrative Tribunal

Case No : Original Application No. 738 Of 2015

Amar Nath And Ors

APPELLANT

Vs

Chairman

RESPONDENT

Date of Decision : 22-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0042

Hon'ble Judges : Aradhana Johri, Member (A), V. Ajay Kumar, J

Bench : Division Bench

Advocate : Meghna De, Rajiv Aggarwal

Final Decision : Dismissed

Judgement

Aradhana Johri, Member (A)

1. The applicants were work charged employees of the respondent Delhi State Industrial & Infrastructure Development Corporation Ltd. [DSIIDC] since 1980 on the posts of Mate and Sweeper. In September 2010, the applicants were promoted as Attendant. In December, 2013, the applicants, except Amar Nath (Applicant No.1), were further promoted as Office Attendant. They were regularized in 2010 on the respective posts. The applicants have claimed that they should be regularized with retrospective effect from the date of joining and seniority be given accordingly. Their specific reliefs are as under:-

"i. Direct the respondent to regularize the services of the applicants on their respective post with retrospective effect from their respective date of joining;

ii. Direct the respondent to count their seniority since their initial joining and to pay the applicants entire difference of salary on the principle of equal pay for equal work along with all arrears thereof;

iii. Direct the respondent to promote the applicants taking into account their seniority since the year 1980 along with all consequential benefits;

iv. Pass any such other or further order(s) as this Hon'ble Tribunal may deem fit and appropriate in favour of the applicants; and

v. Allow the present Original Application with costs, in favour of the Applicants."

2. It is the contention of the applicants that the respondents have issued a list dated 08.12.2014 recommending 18 employees/workmen to be considered for promotion on the post of Assistant Grade-II, and all the said employees are junior to the present applicants. Therefore, they have prayed for status-quo on further promotions of employees in pursuance of the aforementioned list. Further, at least three posts/seats should be kept vacant for their due promotion.

3. The respondents have controverted the claim of the applicants and have said that the applicants were work charged employees and regularized in 2010, even though they were working on a Project and should have been terminated on closure of the Project. They have further stated that the employees recommended for promotion vide list dated 08.12.2014 have nothing to do with the applicants as the same is result of the induction test conducted on 04.12.2014 by Delhi Subordinate Services Selection Board [DSSSB] in pursuance of the directions of the Hon'ble Delhi High Court dated 14.03.2014 which is a consequence of TA Nos.261 and 262 of 2009. It is further contended that the applicants in the said matters were contractual Junior Engineers (Civil) who sought regularization. Hence, an induction appraisal test was conducted by the DSSSB and the candidates, who qualified the said test, were regularized as they possessed the educational qualifications as per the Recruitment Rules pertaining to the post of Junior Engineer (Civil). Therefore, this case and those of applicants are just not comparable.

4. The respondents have further stated that the applicants were part of 109 work charged employees, some of whom approached the Tribunal in TA No. 67/2009 (Ranvir Singh & Ors. Vs. Delhi State Industrial Development Corporation Ltd. & Ors.) seeking regularization of their temporary work charge services. The Tribunal, vide its order dated 25.02.2010 disposed off the said TA with the direction to the respondent to adopt an apt methodology in law to regularize these work charged employees. Accordingly, 18 employees were considered for appointment to the post of AG-III (now merged with AG-II), whereas 91 employees were considered and regularized on the post of Attendant/Farash/Sweeper respectively in PB-1 in accordance with the directions of this Tribunal by applying an apt methodology in law. Two contempt petitions were filed and they were disposed off and closed. It is the contention of the respondents that the decision of the respondents to regularize these work charged employees from 2010 onwards was never challenged and, hence, attained finality. The respondents have also stated that the applicants did not possess the requisite educational qualifications and did not have required length of service as per the relevant recruitment rules of the relevant period for AG-III (now merged with AG-II), they were regularized on appropriate posts which suited their qualifications at the relevant time. The recruitment rules position is extracted as under:-

DR

PR

* 75% By DR

* Qualification: Sr.

Secondary or equivalent

and Six months certificate

course in Computer

Application from

recognized Institute.

*Desirability: Graduation.

*25% by promotion from

eligible ?D? employees after

qualifying Departmental

Examination.

*Promotion: Group ?D?

employees having

qualification of Sr. Secondary

or equivalent from a

recognized Board having put

in three years regular service.

*Desirability: Proficiency in

use of computer operation

5. As per the respondents, none of the applicants had completed three years of service in 2011 and did not have the requisite educational qualifications. They have also alleged that the educational qualifications given by one of the applicants, namely, Amar Nath appear, to be suspect.

6. Heard Ms. Meghna De, learned counsel for the applicants and Sh. Nayan Dubey, learned counsel for the respondents.

7. The first relief claimed by the applicants is for regularization of their services with retrospective effect from the date of joining. The applicants have stated they have been getting leave encashment, LTC, medical facilities, PF deduction etc., therefore, they should be given the status of regular employees. The

respondents have stated that this is a welfare measure and the fact that the facilities have been extended to the applicants does not automatically give them the status of regular employees. The respondents have further stated that this is not as per the prescribed procedure. Further, the applicants have not challenged the date of regularization at the relevant point of time. Therefore, no sufficient basis has been given by the applicants for their regularisation with retrospective effect i.e. from the date of their initial appointment.

8. The applicants have contended that since their juniors are being promoted, they should also be promoted. They have not submitted any seniority list or any other evidence to substantiate their claim. The respondents have, however, averred that promotion of employees after induction test held on 04.12.2014 pertained to a matter which is different to that of the applicants and is in compliance of the directions of the Hon'ble High Court of Delhi. The respondents have further stated that since the Project itself was temporary, it cannot be claimed that the employees working there under be treated as regular employees. Therefore, it cannot be held that employees being recommended vide order of 08.12.2014 are junior to the applicants. Further, it is also held that the applicants were not eligible for promotion of Assistant Grade-II (merged with Assistant Grade-III) as they did not have the requisite experience or educational qualifications. In light of the facts, the plea for backdated regularisation, maintenance of status quo regarding further promotion as per list dated 08.04.2014 and for keeping three posts/seats vacant for them, has no merit.

9. In view of the above discussion, we find no merit in this OA and the same stands dismissed with no order as to costs.