

(2014) 07 TP CK 0023

In the Tripura High Court

Case No : Writ Petition (Civil) (CAT) 02 of 2009

Krishna Dhan Nath Vs Union of India

Date of Decision : 02-07-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2014) LabIC 3962

Hon'ble Judges : Deepak Gupta, C.J; S.C. Das, J

Bench : Division Bench

Advocate : D. Bhattacharjee, Advocate for the Appellant; T. Datta Majumder and P. Majumder, Advocate for the Respondent

Judgement

Deepak Gupta, C.J.—This writ petition is directed against the order of the Central Administrative Tribunal dated 8th July, 2009 whereby, the claim of the petitioner for grant of pay in the scale of Rs. 15,100 - 18,300/- has been rejected. The undisputed facts are that the petitioner was a member of the Tripura Civil Service (TCS) drawing salary in the scale of Rs. 12,000 - 18,000/-. It appears that the Government of India asked all the States to recommend the names of members of the Indian Administrative Services (IAS) for being taken on deputation as Director of Census Operations of the respective States. The State of Tripura expressed its inability to recommend the name of any IAS officer and the name of the petitioner was recommended. The petitioner while joining the post of Director of Census Operations gave an option that he would like to be granted pay as per the Central scales and opted to get the scale as was payable to the Directors of Census Operations belonging to the IAS. It would be pertinent to mention here that no such option was asked for from the petitioner, but he gave this option of his own.

2. Be that as it may, the petitioner soon after joining sent a representation dated 12.09.2000 to the Registrar General of India in the Directorate of Census Operations praying that his salary may be fixed in the scale of the Director at the earliest. No specific scale was mentioned. The office of the Registrar General of India sent a communication dated 30th October, 2000 to the petitioner rejecting

his claim on the ground that the post of Director of Census Operations does not carry any separate pay scale. It was clarified that the officers appointed to the post of Director of Census Operations in the States/Union Territories continue to draw salary in their own pay scale which they had been drawing prior to their joining the Directorate of Census Operations and they are only entitled to deputation allowance. Hence, the request of the petitioner was rejected. Thereafter, the petitioner sent another communication on 4th November, 2000 to the Chief Secretary to the Government of Tripura praying that the Chief Secretary should intervene in the matter. He also sent a similar representation on 6th November, 2000 to the Registrar General of India vide communication dated 18th December, 2000 and the office of Registrar General again rejected the claim of the petitioner on the ground that no separate pay scale exists for the post of Director of Census Operations. Therefore, there is no material on record to show that the matter was agitated by the petitioner and on 26th February, 2001, his salary was fixed in the pay scale of Rs. 12,000 - 18,000/- and thereafter, the petitioner continued to get that salary. Extension of deputation was also granted to the petitioner on 20th October, 2003 and thereafter, the petitioner made another representation on 31st August, 2004 again praying for the scale of Director. Finally, the deputation period of the petitioner came to an end and he was relieved from duties on 28.05.2005 and repatriated to his parent cadre. It is thereafter that the petitioner filed the petition before the Central Administrative Tribunal in the year 2006.

3. The requests of the petitioner were rejected in the year 2002. As per Section 21 of the Administrative Tribunals Act, the limitation is one year from the date of rejection of the representation. Repeated representations do not extend the period of limitation. The petition in this case was hopelessly time barred. We are also of the view that the petitioner having accepted the salary and having continue to work as Director and Census Operations could not be allowed to agitate this point at this belated stage.

4. Even on merits, we find that the stand of the Union of India is clear that no separate scale exists for the post of Director of Census Operations of the State. They will draw their salary in the scale which they were drawing prior to their being appointed as Director of Census Operations in the State, on deputation. The normal practices that an officer belonged to the IAS cadre is appointed as Director of Census Operations and therefore, he would be in the higher pay scale of Rs. 15,100 - 18,300/-. The petitioner obviously did not belong to this cadre. He belonged to a lower service that is the Tripura Civil Service and was getting salary in the lower grade of pay.

5. By fortuitous circumstances, on account of non-availability of any IAS officer, he was appointed as Director of Census Operations. His representation that he should be granted higher scale was rejected on the ground of non-existence of separate pay scale for the post of Director of Census Operations. This is the finding given by the Administrative Tribunal also. This is a pure finding of fact,

which cannot be interfered in writ proceedings. Therefore, we find no merit in this petition and accordingly, the same is rejected.