

(2018) 01 CAT CK 0071

In the Central Administrative Tribunal

Case No : Original Application No. 2284 Of 2013, Miscellaneous Application No. 1763 Of 2013

Tejinder Singh And Others

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 04-01-2018

Acts Referred:

Citation : (2018) 01 CAT CK 0071

Hon'ble Judges : V. Ajay Kumar, Member (J); Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : Inderjit Singh, Satish Kumar

Final Decision : Dismissed

Judgement

1. The applicants, 2 in number and working as Technical Assistant (TA) and Stenographer respectively in the 2nd respondent-National Gallery of Modern Art (for short NGMA), filed the OA seeking the following relief:-

"(i) That the respondents be directed to grant to the applicants the financial benefit for grant of ACP/MACP as applicable to the applicants No.1 and 2 by taking into account their respecting ad hoc service as qualifying service and not from the date of their regularization.

(ii) Any other order/orders(s) as deemed fit and appropriate be issued by the Hon'ble Court".

2. It is the case of the applicants that the first applicant was appointed as TA on ad hoc basis with effect from 22.04.1985 and later he was appointed on regular basis on the same post with effect from 22.09.1989. The second applicant was appointed as a Stenographer on ad hoc basis with effect from 25.10.1985 and later he was appointed in the same post on regular basis with effect from 28.11.1990.

3. The second respondent granted ACP/MACP benefits to the applicants by

counting their regular service in the respective posts with effect from their regular appointment. The applicants submit that since they were appointed on ad hoc basis after following a process of selection before their regular appointment in the said posts, the respondents shall have to count their service with effect from their initial appointment on ad hoc basis in the respective posts but not from the date of their regular appointment for granting of ACP/MACP benefits.

4. Heard Shri Inderjit Singh, learned counsel for the applicants, Shri Satish Kumar, learned counsel for the respondents and perused the pleadings on record.

5. MA No.1763/2013 for joining together is allowed.

6. The respondents vide their counter categorically stated that the second respondent-NGMA was revived in May, 1983 and to meet the immediate requirements, the applicants were appointed on ad hoc basis on the respective posts with effect from the respective dates as indicated above. However, since the said posts were required to be filled up by the Staff Selection Commission (for short, SSC) as per the rules in vogue, the same were requisitioned to the SSC and the SSC advertised the post of TA on 11.03.1989 and the application made thereto by the applicant, was forwarded to the SSC. Thereafter, the applicant was selected and appointed as TA on regular basis with effect from 22.09.1989, basing on the recommendation of the SSC. The second applicant was also appointed as Stenographer on ad hoc basis with effect from 25.10.1985. Later, the second applicant was appointed as Stenographer on regular basis with effect from 28.11.1990. The applicants having accepted the offer of appointments on regular basis with effect from particular dates and having joined as such, cannot seek counting of their ad hoc service prior to their regular appointments for the purpose of financial benefits under the ACP/MACP Schemes, as the said Schemes envisage counting of regular service only in a particular post for granting of the said benefits.

7. Though the applicants contend that their ad hoc appointment was preceded by a regular selection process against existing regular vacancies, but they have failed to show any such regular process for the same. On the other hand, the respondents have shown that the posts in which the applicants were appointed were required to be filled up by SSC and accordingly, after the said vacancies were advertised by the SSC and after the due process of selection and basing on the recommendation of the SSC, the applicants were appointed on regular basis from the respective dates. Hence, since the ACP/MACP Schemes envisages for counting of the regular service, the applicants are entitled for counting their service with effect from their date of regular appointments only.

8. Certain decisions on which the applicants placed reliance in support of their submission for counting of ad hoc service prior to the regular appointment, have no application to their cases as the applicants in the cases on which they have placed reliance were able to show that their ad hoc appointment was preceded by a regular process of selection after competing with all other eligible persons

and were selected against regular vacancies in terms of the Recruitment Rules applicable thereto.

9. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.