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Subhash Chander Vs. Uoi and ors

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Court : Delhi

Decided On : Jan-10-2013

Judge : Veena Birbal

Appellant : Subhash Chander

Respondent : Uoi and ors

Judgement :
* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: January 10, 2013 + W.P.(C) 8253/2011 SUBHASH CHANDER ..... Petitioner Represented by: Petitioner in person versus UOI & ORS ..... Respondents Represented by: Mr.Ankur Chibber and Ms.Akriti Jain, Advocates CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL VEENA BIRBAL, J.

1. By way of this petition under Article 226 of the Constitution of India, a challenge has been made to the order dated May 20, 2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.1810/2011 wherein prayer of the petitioner for the grant of benefit of Second Assured Progression Career Scheme w.e.f. August 9, 1999 and also for the entitlement of arrears from the said date has been rejected.

2. The petitioner had joined the service in the office of Pay and Accounts Office, Ministry of Information and Broadcasting as a Junior Accountant on July 7, 1979. On account of qualifying the JAO (C) Examination conducted by the Controller

General of Accounts, Ministry of Finance, petitioner got first promotion on January 6, 1987 and was promoted to the post of Junior Accounts Officer in the pay scale of Rs.1640-2900. The petitioner was further promoted to the post of Assistant Accounts Officer on March 5, 1992 in the pay scale of Rs.2000-3200. On August 9, 1999, Assured Career Progression Scheme (in short referred to as the ACP Scheme) was introduced by the Government for the Central Government Employees to deal with problems of genuine stagnation and hardships being faced by them due to lack of promotional avenues. The said scheme became operational from the date of issue of O.M. i.e., dated August 9, 1999. Under the said scheme, the first financial up gradation was allowed after completion of 12 years of service and second after completion of 24 years of service. Further provision was made under the Scheme that where an employee who had already got two prior promotion on regular basis, no benefits under the said scheme was available to him. In the present case, petitioner had got two promotions, i.e., one to the post of Junior Accounts Officer in the year 1987 and the other to the post of Assistant Accounts Officer in the year 1992, as such, the respondents did not sanction the benefit of ACP scheme to the petitioner. Aggrieved with the same, petitioner filed aforesaid OA before the Tribunal.

3. The petitioner had contended before the Tribunal that even if he had been granted two promotions prior to coming into operation of ACP Scheme dated August 9, 1999, the second promotion granted to him on March 5, 1992 be ignored and the benefit of ACP scheme should be counted from the date, petitioner was granted promotion and not from date of entry of service.

4. The Tribunal interpreted para 5.1 of the OM dated August 9, 1999 in question and observed that under the said OM, no benefit was admissible to an employee who had already been granted two promotions prior to coming into force of ACP Scheme and it is the petitioners own case that he was granted first promotion on January 6, 1987 and thereafter again given second promotion to the post of Assistant Accounts Officer on March 5, 1992 and he had already earned two prior promotions on regular basis before the ACP Scheme became operational, the petitioner was not entitled for any relief. Aggrieved with the same, present writ petition is filed.

5. The petitioner, who appears in person, has contended that on June 2, 2009, respondent issued an order whereby the post of Junior Accounts Officer was merged with the post of Assistant Accounts Officer and after the merger, it was redesignated as Assistant Accounts Officer, as such, after the merger, he was entitled to second ACP w.e.f. August 9, 1999.

6. On the other hand, the stand of the respondent is that merger of post of Junior Accounts Officer and Assistant Accounts Officer was done on June 2, 2009 under the 6th Pay Commission having prospective effect, as such petitioner cannot be allowed to take benefit of the same retrospectively.

7. Para 5.1 of the OM dated August 9, 1999 which is relevant for the disposal of the present petition is reproduced as under:5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him. (emphasis given).

8. By reading the aforesaid OM, it is clear that no benefit under the ACP Scheme is admissible to an employee who has already granted two promotions prior to coming into force of ACP Scheme. It is the own case of the petitioner that he has already earned two promotions before the ACP Scheme became operational w.e.f. August 9, 1999. The date of promotions which he has already earned have been given above. The contention of the petitioner is that second promotion which was granted to him on March 5, 1992 should be ignored as the post of Junior Accounts Officer had merged with the post of Assistant Accounts Officer and after its merger it was redesignated as Assistant Accounts Officer and in a way he has earned only

one promotion. However, the interpretation given by the petitioner cannot be accepted. The merger of aforesaid two posts have been done on June 2, 2009 under the 6th Pay Commission having prospective effect whereas the petitioner has already been granted promotion to the post of Assistant Accounts Officer on March 5, 1992 and the petitioner is trying to take the benefit retrospectively which is legally not permissible. In view of the above discussion, no illegality is seen in the impugned order which calls for interference of this court. Petition stands dismissed. There is no order as to costs. VEENA BIRBAL, J.

PRADEEP NANDRAJOG, J.

JANUARY 10 2013 ssb

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