



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.2342 OF 2011

RAMPAT AZAD (R.P. AZAD)

...APPELLANT(S)

versus

UNION OF INDIA AND ORS.

...RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

FACTUAL ASPECT

1. Challenge in this appeal is to the judgment of the High Court of Delhi in a writ petition filed by the appellant. The writ petition was filed by the appellant to challenge the order dated 2nd December 2008 passed by the Central Administrative Tribunal (CAT) on an original application filed by the appellant.

2. The appellant was appointed on 15th July 1976 as a Junior Field Officer (JFO), which was a Group B Non-Gazetted post. The pay scale attached to the post was Rs. 550-25-750-30-900. His appointment was made at the Carpet Weaving Training Centre, Jalapur, District Varanasi, which is run by the All-India Handicrafts Board, a part of the Ministry

of Commerce. It was stated in the appointment order that the post on which the appellant was appointed was purely a temporary post under a planned scheme. It was also provided that the appointment was on an ad-hoc basis and was to continue as such till regular appointments were made as per the rules. It was observed that though the appellant was entitled to draw HRA and other allowances admissible by Government servants under the rules, the appointment of the appellant would be ad-hoc, which would not bestow on him any claim to a regular appointment.

3. With effect from 1st March 1978, under the orders of the Government of India dated 15th February 1978, all JFOs in the carpet weaving training centres of the All India Handicrafts Board were redesignated as Carpet Training Officers (CTOs) (Group-C non-Gazetted). While doing so, their pay scale was downgraded to Rs 550-20-650-25-800. As per the order of the All India Handicrafts Board dated 4th June 1979, the Development Commissioner accorded sanction to redesignate the post of Junior Field Officers (JFOs) in the pay scale of Rs. 550/25/750/EB/30/900 as Handicrafts Promotion Officers (HPOs). It was observed in the order that the services rendered by the persons in the post of JFOs in All India Handicrafts Board shall be counted for seniority, leave, increment, confirmation, etc. in the posts of HPOs.

4. The Government of India in partial modification of the order dated 15th February 1978, by the order dated 16th May 1997, directed that the officers who were holding the post of

JFOs in the carpet scheme prior to 1st March 1978 and whose posts were redesignated as CTOs in the pay scale of Rs.550-800 vide order dated 15th February 1978 shall be accorded restoration of pay scale of Rs.550-900 in Group B with effect from 1st March 1978. However, all conditions mentioned in the order dated 15th February 1978 will remain unchanged. The status of CTOs will be ad-hoc, subject to regularisation by UPSC as per the rules.

5. The appellant filed OA No. 2921 of 1997 before the Central Administrative Tribunal, Principal Bench (for short, the CAT). By order dated 2nd December 1999, the CAT directed that in case of the appellant and other similarly situated persons who were holding the post on an ad-hoc basis for a period of 23 years, the respondent Union of India should take steps to regularise the appellant and other similarly situated persons against available regular vacancies of CTOs. The Union of India was also directed to consider their cases for promotion, subject to the availability of vacancies. On 26th June 2006, the ad-hoc service of the appellant as CTO (erstwhile JFO) was regularised with effect from the date of his appointment in the pay scale of Rs. 5500-175-9000.

6. On 6th July 2007, the CAT, Principal Bench granted time to the respondents to comply with the earlier direction pertaining to promotion of the appellant. Thereafter, the appellant filed OA No. 2351 of 2007. The appellant sought direction to promote him. By the order dated 2nd December

2008, the CAT directed the respondents to create promotional avenues or extend the financial upgradation as per the method laid down under the law. A direction was given to make compliance within six months. This order was challenged by way of a writ petition by the appellant. The writ petition was dismissed by the High Court by the impugned judgment and order.

SUBMISSIONS

7. Detailed submissions have been made by Mr. Talha Abdul Rahman, AOR, who has been appointed as amicus curiae to espouse the cause of the petitioner.

8. The learned counsel appointed as Amicus has taken us through the impugned judgments of the CAT and of the High Court. He submitted that the stand of the respondents taken before the CAT of holding and treating the appellant as one belonging to the cadre of CTO was fundamentally wrong. He pointed out that the respondents themselves appointed the appellant in the service as JFO Group B in the pay scale of Rs. 500-900. Moreover, the respondents themselves redesignated the appellant and other similarly situated JFOs as CTOs in Group-C with a lesser grade. He pointed out that the respondents admitted that this redesignation and down-scaling was wrong and therefore, the appellant was re-regularised back to his original cadre as JFO, Group-B with the pay scale of Rs. 500-900. Thereafter, the respondents redesignated all the JFOs who were appointed from 1975-78 as Handicrafts Promotion Officers (HPOs), Group-B in the pay

scale of Rs. 550-900 (pre-revised). He invited our attention to the order dated 26th June 2006 by virtue of which the appellant stood regularised in his original regular post of JFO Group-B. This was done with the concurrence of the Union Public Service Commission (UPSC). As the appellant was originally appointed as a JFO, Group B, he needed to be redesignated and treated as an HPO. Thereafter, the appellant ought to have been given the benefits of promotion in the channel of HPO.

9. Learned counsel submitted that there is a fundamental error committed by the CAT in treating the appellant as belonging to the cadre of CTO. He, therefore, submitted that the CAT ought to have passed an order directing the reconvening of the departmental promotion committee for promoting the appellant.

10. Learned counsel pointed out the cases of respondent Nos. 4 and 5, who were also appointed as JFOs in the pay scale of Rs . 550-900. According to the appellant, they were junior in service to him. Both of them were given the benefit of redesignation as HPO and a grant of promotion in that channel. They were promoted as Assistant Director (Handicrafts), Deputy Director (Handicrafts) and finally as Regional Directors (Handicrafts). He submitted that both the officers are junior in service to the appellants.

11. He pointed out that respondents cannot defeat their own order dated 4th June 1979, by which all JFOs appointed from

1975-78 were redesignated as HPOs. He submitted that a gross illegality was committed by redesignating about 60 JFOs as CTOs in a lesser grade and pay scale. He pointed out that JFOs who have been redesignated as HPOs and JFOs who were down-graded as CTOs were still maintaining a common list of seniority. He pointed out the order dated 16th May 1997 and submitted that when, by that order, the appellant was removed from the cadre of CTO and was placed in the cadre of JFO, it was incumbent for the respondents to give benefits of the order dated 4th June 1979 to the appellant. The learned counsel relied upon communication issued by the respondents on 22nd August 2000, which was addressed to the UPSC. In the said communication, respondents admitted that the appellant belongs to the category of CTOs who were redesignated from the post of JFOs Group-B, along with 45 others. It was admitted that they needed to be regularised and brought back to the designation and cadre of JFO. He relied upon the order passed in OA No. 2921 of 1997 by the CAT. He submitted that the action of the respondents in denying the benefit of the post of HPO to the appellant was arbitrary and violative of Article 14 of the Constitution of India.

12. The submission of learned counsel appearing for the respondents is that the JFOs in the carpet scheme and the JFOs in the marketing scheme were two separate cadres having separate nature of jobs. These two schemes were functional under the office of the Development Commissioner

(DC, Handicrafts). Learned counsel pointed out that JFOs appointed in the carpet scheme were called JFO (Carpet Scheme), and JFOs who were appointed in the marketing scheme were called JFO (Marketing Scheme). He pointed out that the JFOs in the carpet scheme were redesignated as CTOs under an order dated 15th February 1978. The JFOs in the marketing scheme were redesignated as HPOs by the order dated 4th June 1979. He submitted that the work done by JFOs (Carpet Scheme) and JFOs (Marketing Scheme) was completely different. Learned counsel submitted that the appellant was originally appointed on an ad-hoc basis on 15th July 1976 as a JFO (Group B Non-Gazetted) in the scale of Rs. 550-900 in the Carpet Weaving Centre, Jalalpur District, Varanasi (U.P.). The exercise of redesignation of JFOs (Carpet Scheme) to CTOs was done with a view to regularise the employment of the appellant and similarly situated individuals. The appellant accepted his redesignation as per the option he had chosen. The employment of the appellant was regularised by the order dated 26th June 2006 as a CTO on the basis of recommendations of the UPSC, and his services continued till December 2013 on being superannuated. The learned counsel pointed out that the carpet scheme was closed with effect from 12th April 2004, except in relation to Jammu & Kashmir.

13. The learned counsel appearing for the respondents drew our attention to the order dated 2nd December 2008 in Original Application No. 2351 of 2007. He pointed out that a

direction was given to regularise the appellant as well as similarly situated persons in the available regular vacancies of CTOs and consider their cases for promotion. He submitted that in terms of the said order, the appellant was granted the benefit of three financial upgradations (ACPs and MACP), making his pay scale equivalent to that of the Regional Director (Handicrafts), which is the highest post on promotion in the office of Deputy Director, Handicrafts. Learned counsel pointed out that the appellant and similarly situated persons were granted grade pay of Rs 7600 (PB-3) in the pay scale of 15600-39100. However, JFOs (Marketing Scheme) who had been designated as HPOs did not get the benefit of grade pay of Rs 7600 on the grant of financial upgradation. He, therefore, submitted that no interference was called for with the orders of the CAT.

CONSIDERATION OF SUBMISSIONS

14. The order of appointment of the appellant is of 15th July 1976, appointing him as JFO (Group-B Non-Gazetted) in the pay scale of 550-25-750-30-900 in the Carpet Weaving Training Centre. The appointment order stated that it was a temporary appointment under a Plan Scheme. By the order dated 15th February, 1978, the respondents redesignated all the JFOs (Group B) in the pay scale of Rs. 550-900 in the existing Carpet Weaving Training Centres as Carpet Training Officers (CTOs) – (Group C Non-Gazetted), in the pay scale of Rs. 550-20-650-25-800. Thus, CTOs, including the appellant, were downgraded.

15. What is important is the order dated 4th June 1979, which reads thus:

“In exercise of the powers vested in the Development Commissioner for Handicrafts, All India Handicrafts Board, as Head of Department, **sanction is hereby accorded to re- designate the posts of Junior Field Officers in the scale of pay of Rs. 550-25-750-EB-30-900 in the All India Handicrafts Board, as Handicrafts Promotion Officers with effect from 12th May, 1979.**

The services rendered by the persons concerned in the posts of Junior Field Officers in the All India Handicrafts Board will count for all purposes including seniority, leave, increment, confirmation etc. in the posts of Handicrafts Promotion Officers.”

(emphasis added)

16. Then comes the order of this Court dated 13th September 1994 passed in the case of **Sushil Kumar Sehgal v. Union of India** in C.A. No.3009 of 1989. This order was in the case of the appellant who had joined service as a temporary JFO and was designated as HPO in an ad hoc capacity in July 1979. This Court held that an employee cannot be treated as an ad hoc employee for such a long time. It was directed that the appellant therein shall be treated as a regular substantive holder of the post of HPO.

17. The order dated 16th May 1997 modified the earlier order dated 15th February 1978 by which the appellant and other JFOs were redesignated and downgraded as CTOs. The order dated 16th May 1997 is very material, which reads thus:-

“In partial modification of this office order No. 20/16(10)/78-AD. II dated 15.2.1978, sanction of President is hereby accorded to the restoration of the scale of pay of Rs. 550-900 in Group 'B' w.e.f. 1.3.1978, purely on personal basis, to those officers only who were holding the post of JFOs in Carpet Scheme prior to 1.3.1978 and whose posts were re- designated as C.T.O. in the scale of pay Rs. 550-800 vide order No. 20/16(10)/78-AD.II dated 15.2.1978. All other conditions mentioned in the order No. 20/16(10)/78-AD.II dated 15.2.1978 will remain unchanged. The status of these CTOs will be ad-hoc and subject to regularization by UPSC as per rules.

This issues with the concurrence of the Ministry of Finance vide their Diary No. 581/FC/96 dated 8.10.96 and Department of Personnel and Training vide their Diary No. U.O. No. C-126/97 Part I dated 9.4.97.”

18. The order can be analysed as under:-

- i.** The order was applicable to those officers who were holding the post of JFOs in the carpet scheme prior to 1st March 1978 and whose posts were redesignated

as CTOs in the pay scale of Rs.550-800 vide order dated 15th February 1978;

- ii.** Pay scale of the aforesaid category of officers was restored in Group B in the pay scale of Rs.550-900;
- iii.** The effect of the said order is that in the case of the officers mentioned in clause (i) above, while maintaining their designation as CTOs, the pay scale of Rs.550-900 was restored; and
- iv.** The status of the CTOs was to be ad-hoc and subject to regularisation by UPSC, as per the rules;

19. Before we refer to the order dated 2nd December 2008, we must refer to the earlier orders passed in the case of the appellant. Firstly, we refer to the order dated 2nd December 1999 in OA No. 2921 of 1997 passed by the CAT. The appellant was the applicant in the said OA. This OA was based on the order dated 16th May 1997. In paragraph 4 of the said order, the CAT directed the respondents to take prompt steps to regularise the appellant and other similarly situated persons in the regular vacancies of CTOs and consider their cases for promotion, subject to the availability of vacancies in the promotional channel. The appellant did not challenge the said order by contending that he should be regularised as an HPO. Thus, he accepted the order directing his regularisation in the vacancies of CTOs. In terms of the said order, a communication was addressed by the Deputy

Director (Administration) of the Ministry of Textiles on 22nd August 2000 to the Secretary of UPSC. As the order of the CAT was not complied with, a contempt petition was filed. The order dated 13th March 2001 in the contempt petition records that within three weeks, the respondents shall state the dates from which the appellant and other similarly situated persons will be regularised. Thereafter, the order dated 26th June 2006 was issued, which reads thus:

“Consequent upon approval of UPSC vide letter No. F. No. 4/23(1)/2000-AP-3 dated 3.6.2002 and in continuation of this office Order No. 15(87)/93-Admn.II dated 16.5.97 **the ad-hoc services of Shri R.P. Azad, CTO (erstwhile Junior Field Officer) is regularized w.e.f. their date of appointment / date of joining in the pay scale of Rs. 5500-175-9000.**

(emphasis added)

Thus, the appellant was regularised as CTO and not as HPO. Even this order was not challenged.

20. The appellant again filed a contempt petition before the CAT. In the order dated July 6, 2007, on the contempt petition, the CAT observed that it took the respondents seven years to comply with the first direction to regularise the appellant, but the second direction was not complied with. A direction was issued by the CAT to comply with the second direction regarding the promotion of the appellant. By the order dated 28th September 2007, the respondents held that the carpet scheme was a closed scheme and therefore, the

promotion of the appellant could not be considered. Thereafter, another original application was filed by the appellant, being OA No. 2351 of 2007. The OA was disposed of by order dated 2nd December 2008 by issuing a specific direction to the respondents to either create promotional avenues or extend the appellant's financial upgradation as per the methodology laid down under the rules.

21. It is this order dated 2nd December 2008, which was subjected to challenge before the High Court. The appellant's objection was to that part of the order by which an option was given to either create promotional avenues or extend the financial upgradation. The High Court in the impugned judgment noted that the order dated 2nd December 1999 was not challenged by the appellant, which directed consideration of the appellant's case for promotion as a CTO (and not as HPO), subject to the availability of vacancies in the promotional channel. The High Court relied upon the order dated 28th September 2007. The High Court observed that for the promotion to the post of Assistant Director (A & C), the CTO was the feeder cadre. As the carpet scheme was closed, all the officials in the cadre of CTOs in the carpet scheme, other than Jammu & Kashmir, were declared as surplus. Therefore, the question of promotion of the appellant to a higher post did not arise at all.

22. We have perused the communication dated 28th September 2007. It is stated therein that the carpet scheme was already closed as of 12th April 2004, except for Jammu

and Kashmir; as such, CTOs in the carpet scheme were declared surplus. Therefore, the question of promoting the appellant did not arise.

23. It is not in dispute that the appellant was appointed as a JFO in Group B by order dated 15th July 1976. His post was designated and downgraded to CTO by the order dated 15th February 1978. In the meanwhile, by the order dated 4th June 1979, all JFOs were redesignated as HPOs with effect from 12th May 1979. What is most important is the order dated 16th May 1997. By the said order, the pay scale of JFOs in the carpet scheme was restored. What was restored was the pay scale of Rs. 550-900 in Group B with effect from 1st March 1978. However, the designation of appellant and others as CTOs was not changed.

24. By the order dated 16th May 1997, the status of the appellant as CTO was maintained, but the earlier pay scale of Rs.550-900 with effect from 1st March 1978 was restored. That order was challenged by him by filing OA No. 2921 of 1997, which was decided by the order dated 2nd December 1999, wherein a direction was issued to regularise the appellant in the cadre of CTO. The promotional avenues claimed by the appellant were only available to HPOs.

25. The order dated 2nd December 1999 of the CAT directs the regularisation of the appellant and others in the regular vacancies of CTOs. By the order dated 26th June 2006, the respondents regularised the service of the appellant as a CTO

in the pay scale of Rs 5500-175-9000. In the further order dated 6th July 2007, a direction was issued to consider the case of the appellant for promotion by considering promotional avenues available to CTOs. Therefore, the sum and substance of the impugned orders is that no direction was ever issued to treat the appellant as HPO.

26. Coming back to the order dated 2nd December 1999 of the CAT, the direction was to regularise the appellant and other similarly situated persons in the vacancies of CTOs and consider their cases for promotional avenues in the available vacancies in the promotional channel. This order was not challenged.

27. The respondents have relied upon a decision of the Delhi High Court dated 8th August 2007 in ***N.K. Asthana v. Union of India***, which holds that only JFOs under the marketing scheme were designated as HPOs and not JFOs working in the carpet scheme.

28. Therefore, we are unable to issue directions to consider the appellant as HPO and grant him further promotion. However, it is discernible from the materials on record that the appellant was given the benefit of MACP by the respondents as per the second option given by the CAT in the order dated 2nd December 2008.

29. Hence, we are unable to interfere with the impugned judgment.

30. Accordingly, the appeal is dismissed.

.....J.
(Abhay S. Oka)

.....J.
(Ujjal Bhuyan)

**New Delhi;
May 20, 2025**