

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

CIVIL APPEAL NO. 174 OF 2013

SANT LAL

... APPELLANT

VERSUS

UNION OF INDIA & ANR.

... RESPONDENTS

ORDER

1. The present appeal is filed assailing the order dated 16.03.2011 (hereinafter '**Impugned Order**') passed by the High Court of Judicature at Allahabad, Lucknow Bench (hereinafter '**High Court**') in Writ Petition No. 401 (S/B) of 2009 whereby the order dated 25.02.2009 passed by Central Administrative Tribunal, Lucknow (hereinafter '**CAT**') in Original Application No. 400 of 2007 was set-aside.

2. In the instant appeal, the questions arise for our consideration –
- a. Whether denial of benefit of absorption to the appellant for the reasons as stated in the impugned judgment is justified?
 - b. In case, the question No.1 is answered in negative, what

relief, at this stage, can be allowed to the appellant?

3. Shorn of unnecessary details, the appellant was working as Lower Division Clerk (LDC) in the CAT since August, 1993. On establishment of the Debt Recovery Tribunal, Lucknow (hereinafter '**DRT**'), the appellant applied in furtherance of an advertisement issued in April 2004 for filling up the vacancies in various posts in DRT, Lucknow on deputation including the post of Court Master. He was appointed for a period of one year with effect from 01.02.2002 to 31.01.2003.

4. The Central Government through Ministry of Finance notified the Rules which are known as the Debts Recovery Tribunal, Lucknow (Group 'C' and 'D' posts) (Non-Gazetted) Recruitment Rules, 2002 (hereinafter '**DRT, Lucknow Rules**') on 09.09.2002. Rule 7 prescribes a method of regularization/absorption whereby a person holding the posts in the DRT, on the date of commencement of these rules fulfills the qualification and experience as per rules and working on deputation or on transfer found suitable by the Departmental Promotion Committee shall be eligible for regularization/absorption in the respective grade, if they exercise the option for the absorption and the parent departments do not have any objection for such absorption.

5. It is the case of the appellant that during his tenure, the recourse for his absorption was not taken despite his option while on deputation in the DRT. Thereafter, upon completion of tenure of deputation, he was relieved from DRT on 31.01.2003. It was further said, when the process of absorption was started and the Committee was not going to consider his candidature; the appellant preferred OA No. 550 of 2004 before the CAT, and sought direction to consider his case for absorption as court master. CAT vide order dated 19.05.2005 directed to consider the appellant's claim for regularization along with respondent no. 2, namely, Ramesh Kumar from the date he was due consequent to the promulgation of the DRT, Lucknow Rules, if found suitable.

6. Respondent no.2 was working as Court Master in Debts Recovery Tribunal from 14.12.2003 and as such, on the date of notifying the DRT, Lucknow, Rules, he was not in service of CAT. Therefore, his claim for regularization under the Rules was not possibly required to be considered except in a situation where relaxation under Rule 8 has been granted by the Central Government, recording reasons for such relaxation.

7. Even after passing the order by the CAT, it was assailed before

the High Court by the Union of India in Writ Petition 1463 (S/B) of 2005, which was dismissed for non-prosecution vide order dated 01.12.2006. Subsequently, without indicating or referring to the direction as issued by the CAT and the order of the dismissal of the writ petition by the High Court, the DRT considered the claim of other employees for absorption/regularization and respondent No.2.

8. Vide order dated 20.03.2007, respondent no.2 has been absorbed in the DRT as Court Master. Prior to his retirement, in the interregnum, he was promoted as Recovery Inspector. The appellant assailed such an action by filing OA No. 400 of 2007 before the CAT praying to set-aside the absorption of respondent no. 2 herein and a direction to convene a review DPC. CAT allowed the OA No. 400 of 2007 vide order dated 25.02.2009. The relevant portion of the CAT order is reproduced for ready reference as thus :

“18. When the selection of the Respondent No.3 on the post of Court Master itself is illegal and against Recruitment Rules, 2002, it is not open to any of the respondent to take shelter under subsequent consequential events including resignation of Respondent No.3 submitted to his parent department, its acceptance and lien heaving come to an end in parent department etc. Further (*sic*), all these respondents including Respondent No.3 are aware of Recruitment Rules, 2002, eligibility conditions and the claim of the applicant and filing of his earlier OA, and extent of direction given by the tribunal and in spite of knowing all these facts and realities, they have acted

against Recruitment Rules, 2002 and judgment on O.A. No.550/1994 and in such circumstances, declining to interfere with illegal act of official respondent is nothing but ratifying such acts by this tribunal, which is not permissible under law. Thus, there is no justification in the arguments of Respondent no.3.

19. In view of the above circumstances, the regularization/absorption of Respondent No.3 on the post of Court Master by the respondent authorities is set aside with a direction to conduct fresh selection as per Recruitment Rules, 2002 and also consider the claim of the applicant for his regularization/absorption afresh and thus, OA is allowed. No costs.”

9. The said judgment was assailed before the High Court by Respondent No.2 in a Writ Petition No. 401 (S/B) of 2009 which was allowed with the following observations :

“5. In the instant case, the petitioner fulfills the requirement of being in service on the date of coming into force the said Rules along with the qualifications and had made option for absorption but the parent department did not give no-objection for absorption in Tribunal. Once that being the case, the question of absorption of respondent No.4, would not arise.

6. In so far as the petitioner is concerned, though, he was not eligible to be considered in terms of Rule 7, nonetheless, the Government has relaxed the provisions regarding being in service on the date of Rules and has been absorbed.

In our opinion, in the light of that, we find that the impugned order of the Tribunal, liable to be set-aside and absorption of the petitioner is upheld.”

10. After perusal of the relevant rules, as per Rule 7, the requirement for absorption was that the person must hold the post in the DRT on the date of commencement of the DRT, Lucknow Rules. Undisputedly,

Respondent No. 2 joined the Tribunal on deputation on 14.05.2003. Therefore, he was not holding the post in the DRT Lucknow on the date of commencement of the Rules i.e. 09.09.2002. In this light, the observations made in paragraph 5 by the High Court stating that the respondent no. 2 herein fulfilled the requirement of being in service on the date of commencement is not correct. Nonetheless, it was a case of issue of eligibility which has been dealt with in paragraph 6 by the High Court referring the letter of the Government regarding relaxation of such condition as required by Rule 7.

11. As directed, the documents regarding relaxation were sought to be produced before us. In this regard, it is required to refer to the letter written by the Registrar of the DRT to the Deputy Secretary (DRT), Banking Division, asking relaxation of the condition regarding holding of the post in DRT by Respondent No.2 is placed on record. In the said letter, the correct facts have not been disclosed. In response, the Government, through the Under Secretary, communicated that the case of Respondent No.2 for absorption may be considered, if no LDC is available for promotion. In our view, the said cannot be treated as relaxation under Rule 8 of the DRT, Lucknow Rules that too without specifying the reason. In that view of the matter, the High Court has

completely erred in accepting the plea of relaxation granted to him by the Court. Accordingly, the finding as recorded by the High Court is perverse and do not meet the requirement of Rule 7 and Rule 8 of the DRT, Lucknow Rules and we set aside the order passed by the High Court.

12. As regards the reliefs sought, it is pertinent to note that respondent no. 2 was already absorbed in the DRT and attained the age of superannuation in 2019, since that time he has been receiving post-retiral benefits from the DRT. In this situation and notwithstanding the reasoning set out hereinabove, this Court is not inclined to disturb his absorption or to direct the withdrawal of the benefits already conferred upon him.

13. At the same time, so far as the appellant is concerned, he has also attained the age of superannuation in July 2024 from CAT but the fact remains that if he would have continued in service and would have been absorbed in DRT as Court Master with subsequent promotion at par with Respondent No. 2 he would be in a higher scale, than he was getting at the time superannuation from CAT and would get the higher pensionary benefits as allowed to Respondent No.2. Therefore, in such circumstances, for the reasons recorded

hereinabove, the denial of absorption to the appellant was wholly unsustainable and the judgment of the CAT deserves to be upheld. Accordingly, if he would have been absorbed in the DRT, Lucknow, he would get a higher pay-scale similar to respondent no.2. The comparison note in this regard has been filed by way of an additional affidavit by the appellant, Para 6 and 7 thereof are relevant, therefore reproduced as under :-

“That if the Appellant had not been repatriated and his case of absorption appointment to the post of Court Master DRT had been considered on the relevant date i.e. 31.01.2003 in accordance with the Rules then in due course he would have been entitled to be promoted to the post of Recovery Inspector/Assistant, as the Recruitment Rules provides 8 years regular service on the post of Court Master for eligibility towards promotion on the post of Recovery Inspector/Assistant. The Pay Scale of the Recovery Inspector is falling in Pay Band-7, Scale 9300-34800 +Grade Pay 4600. The comparison of Basic pay in CAT and DRT if the Appellant was granted benefit as per rules & was retained in DRT is being reproduced as under :

S.N.	PAY FIXATION AS ON	IN DRT (RS.)	IN CAT (RS.)	REMARKS
1.	01.02.2002	4000/-	3575/-	Post of Court Master in DRT was falling in the pay scale of Rs.4000-6000/-
2.	01.01.2006	5200/- Grade Pay 2400	5200/- Grade Pay 2400	6 th Central Pay Commission (CPC) recommendation
3.	01.02.2010	9300/- Grade Pay 4600	9117/- Grade pay 2400	Note: Although if the Appellant was granted benefit as per Rules and was not illegally repatriated then after 8 years regular service he would have been promoted

				as Recovery Inspector/ Assistant. (Pay scale 9300-34800/- + Grade Pay 4600)
4.	01.01.2016	53600/- Basic Level-7	37000/- Basic Level-5	7 th CPC recommendation Pay Scale in CAT was in Grade Pay-2800
5.	February, 2024	68000/-	**46800/-	Note: *Vide order dated 26.09.2023 Appellant was granted placement in the higher pay-scale/Non-functional Selection Grade (NFSG) in Level-6, with Grade Pay-4200 w.e.f. 05.1.2023 in CAT though till today it has not been implemented and the applicant is still drawing Pay scale, Grade Pay 2800 in Level-5

7. That a perusal of above comparative chart makes it clear that if the Appellant had been absorbed as Court Master DRT then his basic pay as on today would have been Rs.68,000/- whereas on account of illegal repatriation of the Appellant to CAT has resulted in great financial loss in salary as the applicant as on today is getting only Rs.46,800/- as basic pay in CAT. This huge difference in basic pay has harshly impacted his financial status and his claim of pension and other pensionary benefits at the time of superannuation which will be due in the month of July 2024.”

14. Accordingly, we grant the relief in the following terms :

- a. The benefit as extended to respondent no.2 has not been disturbed and he will continue to get the same benefit as allowed to him;
- b. The respondents are directed to absorb the appellant as Court Master with effect from the date of his relieving while

he was serving on deputation in the DRT. After relieving, since the appellant continued in the CAT till attaining the age of superannuation, therefore, on his absorption in the DRT with effect from the date of his relieving, he may not be entitled to get difference of salary. It is directed that treating him absorbed as Court Master on higher scale at par to respondent no.2, his consequential notional benefits be calculated. According to the said calculation, he would be entitled to get post retiral pensionary benefits. The pension be also fixed accordingly; and

- c. On fixation of post retiral pensionary benefits, difference of pension be also paid to him. The aforesaid exercise be completed within a period of two months.

15. This appeal be treated disposed of in the above terms. Pending application(s), if any, shall stand disposed of.

.....,J.
[J.K. MAHESHWARI]

.....,J.

[ATUL S. CHANDURKAR]

**New Delhi;
February 12, 2026.**

ITEM NO.101

COURT NO.3

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 174/2013

SANT LAL

Appellant(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 12-02-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Appellant(s) : Ms. Kamini Jaiswal, AOR
Ms. Rani Mishra, Adv.

For Respondent(s) : Mr. N Venkataraman, A.S.G.
Mr. Arijit Prasad, Sr. Adv.
Ms. Nisha Bagchi, Sr. Adv.
Ms. Alka Aggarwal, Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Navanjay Mahapatra, Adv.
Mr. Amitesh Chandra Mishra, Adv.

Mrs. Nanita Sharma, AOR
Mr. Vivek Sharma, Adv.
Mr. Mahesh Chandra Tiwari, Adv.
Mr. Shailendra Singh, Adv.
Mr. Rohit Kumar, Adv.
Ms. Sabnam Sultana, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal be treated as disposed of in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(GULSHAN KUMAR ARORA)
DEPUTY REGISTRAR

(NAND KISHOR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)