CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/021/00560/2018 with
MA Nos. 396/2019, 397/2019 & 607/2019

HYDERABAD, this the 4th day of September, 2020.

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

1.T.Ramachander S/o T.Lingaiah,
Age : 57 years, Sub Postmaster, Group 'C',
Bharat Nagar Colony P.O., Hyderabad – 500 018.

2. M.Sevya S/o M.Malya,
Age : 53 years, Postal Assistant,
Humayun Nagar P.O., Hyderabad – 500 028.

3. B.Narsing Rao S/o B.Vittal Rao,
Age : 46 years, Postal Assistant,
Srinagar Colony P.O., Hyderabad.

4. Smt.G.Vennela W/o B.Anandasagar,
Age : 44 years, Officiating SPM, CUC P.O.,
Hyderabad 500 018.

5. K.Koteswara Rao S/o Late K.Hanumaiah,
Age : 55 years, Sub Postmaster, Swarajyanagar SO,
Hyderabad 500 018.

6. G.Srinivas Yadav S/o Late G.Gyneshwar,
Age : 47 years, Postal Assistant, Sanathnagar IP PO,
Hyderabad 500 018.

7.Smt.B.Arundhati W/o A.Sudershan,
Age : 47 years, Postal Assistant,
Khairatabad, Hyderabad-500 004.

8. Ch.Venu S/o Ch.Venkataramana,
Age : 47 years, Postal Assistant, Humayunnagar SO,
Hyderbad-500 028.

9.Smt.G.Geetha
(Withdrawn from array of applicants vide order dt.10.05.2019)

10.Smt.K.Radha W/o K.Manoj Kumar,
Age : 40 years, Postal Assistant, Golconda P.O.,
Hyderabad-500 008.

11.Pasupulati Srinivasu, S/o P.V.Chalapathi Rao,
Age : 47 years, MACP-II Postal Assistant,

Yousufguda PO, Hyderbad – 500 045.

12.C.Rama Krishnam Raju S/o C.Babu Raju,
Aged 46 years, Postal Assistant, Khairatabad HPO,
Hyderabad-500 004.

13.T Susheela W/o M.S.Baig,
Aged 57 years, SPM, Vidhan Sabha PO, Hyderabad – 500 004.

14.S.Khader Mohiuddin S/o Late Sk.Moula Ali,
Aged 58 years, PA, Banjara hills PO, Hyderabad – 500 034.

15.Gurrappagari Ramesh S/o G.Jagannatham,
Aged 48 years, OA., PSD, Padmaraonagar, Hyderabad 500 025.

16.Y.Ramesh S/o Ramdas, Aged 47 years,
PA., Banjara hills PO, Hyderabad – 500 034.

17.P.Maheswari W/o Late P.Prasad Rao,
Aged 49 years, OA., O/o SSPO's,
Hyderabad City Division, Hyderabad-500 001.

18.K P Meenakshi W/o Y.Raja Mahesh,
Aged 48 years, PA., Somajiguda PO,Hyderabad – 500 082.

19.M.Vijaya Kumar S/o M.Virupakshappa,
Aged 45 years, PA., S R Nagar PO, Hyderabad 500 038.

20.R.Srinivas S/o R.Krishna,
Aged 45 years, SPM, Raj Bhavan PO, Hyderabad 500 004.

...Applicants

(By Advocate : Mr.M.Venkanna)

Vs.

1. The Union of India represented by
   Its Secretary, Government of India,
   Ministry of Communications and I.T,
   Department of Posts-India,
   Dak Bhavan, Sansad Marg, New Delhi – 110001.

2. The Chief Postmaster General,
   Telangana Circle, HYDERABAD-500 001.

3. The Postmaster General,
   Hyderabad HQ Region, HYDERABAD 500 001.

4. The Postmaster General,
   Hyderabad Region, HYDERABAD 500 001.

....Respondents

(By Advocate: Mr.R.V.Mallikarjuna Rao, Sr.P.C. for C.G)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed by the applicants challenging the cadre restructuring scheme of Group 'C' employees vide Memo dated 27.5.2016 and the consequent transfers. Later, MAs were filed raising additional grounds and seeking appropriate directions to the respondents.

3. Brief facts of the case are that on the Postal side, certain restructuring in the Group 'C' Cadre had taken place vide memo dated 27.5.2016, the salient features of which include the following:-

(a) upgrading Single Handed and Double Handed Post Offices into Lower Selection Grade Post Offices (for short "LSG")

(b) upgrading the Triple Handed Post Office as Higher Selection Grade II (for short "HSG-II") post offices;

(c) creating a non functional grade in HSG- I.

Based on the said orders, the 2nd respondent has promoted and allotted employees of Telangana Postal Circle to different regions on 17/18.5.2018 & 14.5.2019 under the control of the 3rd and 4th respondents for further postings in Divisions under the jurisdiction of the regions, without giving an opportunity to exercise options to different regions and posts in divisions. Applicants represented to the respondents on 22.5.2018, with no fruitful results. Hence, the OA.

4. The contentions of the applicants are that the mandatory requirement of circulating the circle gradation list every 2 years amongst those concerned was not abided by. As per the respondents' admission, it was

prepared in 2007 and that too, when the combined Postal Circle was functional in the undivided State of A.P. Without issue of fresh gradation list after the bifurcation of the Circle into A.P. and Telangana Postal Circles on 1.7.2016 and even without conducting DPC or referring to APARs, promotions accompanied by transfers were effected on 17/18.5.2018 & 14.5.2019. Consequently, eligible were ignored and ineligible promoted. The promotions ordered under restructuring do not provide for any financial gain and on the contrary, caused transfers to distant places causing financial burden. Recruitment Rules were not revised as per DOPT instructions. Not issuing notice before implementing an administrative decision of promoting the applicants, which was not sought and transferring them is against law.

Aggrieved, applicants approached the Tribunal in this OA and in violation of the interim orders issued, respondents forced the employees who are unwilling, to decline promotions and thereon, debarred them for one year to be eligible for promotion, resulting in adversely affecting their seniority and future career. Factually, on approaching the Tribunal, an interim order was passed on 15.06.2018 to the effect that, any promotions ordered shall be subject to the result of the OA and thereafter, the impugned order dated 14.5.2019 effecting further promotions under restructuring was suspended vide Tribunal order dated 29.5.2019. The applicants for having challenged deficiencies in the restructuring order, in principle, have been penalised by debarring them for promotion for a period of one year, which is grossly unfair.

5. Respondents have filed reply statement opposing the OA and also filed MA for vacating the interim order.

6. Heard both sides and perused the pleadings on record.

7. The very same issue came up for consideration before this Tribunal in OA Nos. 515/2019 & 517/2019 and this Tribunal disposed of the said OAs on 19.08.2020 by passing a detailed order dealing with the rival contentions of both the sides. Relevant observations made by this Tribunal in the said OAs are follows:

> *"7. I. The issue under dispute is about promotion and transfer of the applicants on the basis of cadre restructuring of the Group 'C' employees working in the postal side of the respondents organization, ordered by the 1st respondent in Order No.25-04/2012-P.E.I dated 27.5.2016. xxxxx*
>
> *xxxxx*
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> *The restructuring is far reaching with upgradation of single handed, double handed post offices to LSG to the extent of LSG posts shown against each postal circle, triple handed post office as HSG –II, granting grade pay of Rs.4600 to HSG-II on par with HSG-I posts in respect of posts identified, addition/ abolition of posts and creation of a new non-functional HSG-1 grade with grade pay of Rs.4800. The pertinent aspect which requires mention is that as per clause (f) of the restructuring order dated 27.5.2016 vacancies arising out of restructuring have to be filled up by the eligible staff in accordance with recruitment rules for the relevant posts. 2nd respondent issued orders of promotion and allotted the employees/applicants to regions for posting them in the divisions under the control of the respective regions.*
>
> *Xxxx*
>
> *III. Moreover, restructuring is a policy matter and the Tribunal would refrain from interfering with the policy. However, when it comes to implementation, there are many questions which are to be answered. It is this challenge which we would like to look into and resolve.*
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> *IV. The basic document which is banked upon is the circle gradation list to effect promotion since it has important details in regard to seniority, date of birth, community, date of entry, appointment & confirmation dates etc. It has to be circulated every two years for seeking any objections from the staff in regard to status, date of birth, seniority etc. The response of the respondents was that the promotions were effected based on the circle gradation list issued on 31.5.2007 when the combined postal circle was functioning. Eleven years have lapsed, but the same was not revised and was used to order promotions and consequent transfers by the 2nd respondent on 17.5.2018. Besides, a*

major development took place on 1.7.2016 when the Circle was bifurcated into Telangana and A.P. Postal Circles respectively. Respondents claim that the combined circle gradation list was adopted by deleting the names of the employees who became a part of the A.P. circle. This is surprising, since such a core document, which is the basis to decide the career of the employees has been dealt with in a casual manner giving room for the emergence of the OAs. It requires no mention that the Circle gradation list is a sacrosanct document with certain mandatory features and has to be necessarily prepared based on the principles of seniority, as expounded below:

Xxx xxxx xxxxx
Xxx xxxx xxxxx

VI. Therefore, there are multiple factors which form the basis for issue of circle gradation list and law has been clearly spelt out in respect of seniority, which is the foundation of gradation list, as elaborated in paras IV & V. Hence, circle gradation list cannot be as simplistic as taking the Circle gradation list of 2007 and removing the names of those who form the part of A.P. Circle and then taking it as the basis for effecting promotions as well transfers in the year 2018 for those employees/ applicants working in Telangana Circle. There are many principles of seniority as outlined above, which are essentially to be followed and the Circle gradation list has to be issued after resolving any objections raised by the employees concerned. The respondents have not done this critical exercise but went ahead by using a Circle gradation, which is liable for questioning on the basis of law as well as rules expounded above. The respondents had ample time from 2016 to 2018 to prepare the Circle gradation list but they did not. It is not to be lost sight of the fact that between the years 2007 to 2018 the status of the employees working during that period would have changed in view of various principles of seniority touched upon in the previous paras. Therefore, the moot point is as to whether the respondents can go ahead without looking into the latest status of all those employees who were found to be in the zone of consideration without making a reference to the updated circle gradation list as is required under relevant rules. Furthermore, when the matter was under adjudication and there was an interim order on 11.6.2018 not to fill up vacancies preferred by the applicants, it was an obvious signal to the respondents that the Tribunal was seized of the matter. Even then, respondents again went ahead and issued one more order on 14.5.2019 which was suspended on 29.5.2019 given the drawbacks highlighted by the applicants. Before a copy of the interim order dated 29.5.2019 was received by the respondents, 42 of the 422 promoted as per order dtd. 14.5.2019 joined the promoted posts. Ld. Counsel for the applicants alleged that it was a deliberate attempt made by the respondents to hasten up the process of implementation after knowing that a case has been filed in the Tribunal against cadre restructuring and its consequential fall outs. Generally, it is expected and in fact, appropriate on part of the respondents to await the final judicial order in sensitive issues of the nature in question to avoid protracted litigations. It is not out of place to adduce that promotions are what employees look for with great enthusiasm and anxiety and if these are not handled with care as per rules and law, the result is what we are seeing now.

VII. Given the complexity of the issue, we are aghast at the way in which the respondents have gone ahead in ordering the promotions without preparing the circle gradation list based on principles of seniority and other issues raised like holding of DPC, referring to APARs, revision of recruitment rules, following the legal principle in

respect of reservation in promotions etc while issuing the 17.5.2018 promotion order. xxxx

VIII. The recruitment rules are to be reviewed every 5 years whenever there are changes brought about in the cadre by ushering in new policy initiatives for meeting demands arising out of advancements in technology, market orientation, customer requirements etc. In the instant case there are whole some changes where in a new non functional HSG-I grade was created, upgradation of single handed, double handed, triple handed post offices as LSG/HSG-II grade and revision of grade pay for some cadres was ordered. In the event of such major changes it was necessary that the recruitment rules had to be revisited as per DOPT OM AB.14017/48/2010-Estt. (RR) dated 31.12.2010 read with memo dated 8.5.2018. (Annexures A-VI & VII). Respondents claiming that every review would not necessarily call for amending the Recruitment Rules, in the context of the major changes due to restructuring, lacks reasoning.

IX. Justification given by the respondents for failure to give options was that the cadre restructuring is a time bound programme and that obtaining options from thousands of employees is highly time consuming. This reasoning has to be simply dismissed. For, it is trite that when certain conditions of services are altered, the concerned individuals have to be properly informed and their objections if any invited. Promotion is one such aspect, which alters the condition of service. Again, while under normal circumstances, transfer may not be treated as a condition of service, in the instant case since, due to division of the State, dislocation of employees would entail change in seniority position, there has, ineluctably, to be an opportunity given to the affected employees to exercise their option, which is one of the vested rights of the employees. Strictly speaking, cadre restructuring is not one of such a time bound issue that it could ignore the vested right of the employees. Even if there be a compelling necessity, within the time available, the Respondents while effecting the promotions and transfers could have given opportunity to the employees with shorter dates to indicate their preferences/objections to minimise grievances rather than unilaterally – rather arbitrarily promoting/allotting applicants/employees to the regions in an exercise of major scale and importance as the present one. Transfer is a sensitive issue, where a fine balance is to be struck between organisational interests and employee aspirations/ requirements. Be it regular or on promotion basis. When the fine balance is lost the imbalance would kick in grievances galore as is evident in the instant case. The same could have been avoided with patience and perseverance by looking into the issues agitated. There is no dispute in regard to the involvement of the staff unions in evolving the policy of restructuring as such association and taking into confidence of the Unions reflect the democratic method of restructuring. However, while implementing the restructuring policy the steps taken are not in consonance with rules and law as was portrayed in paras supra.

X. xxxx

The latest initiative is the cadre restructuring ordered on 27.5.2016 in Group C cadre with far reaching consequences. Overall, there were broadly 14 initiatives taken from 1983 till 2016 to ensure that the Postal Organisation responds to the needs of the changing societal needs. However, the running theme in all the schemes is that the implementation has been a grey area leading to extensive litigation. The present case of cadre restructuring is one such instance wherein the policy initiative taken was praiseworthy in the context of expanding rural market, India

Post Payment Bank and the role of India post to facilitate online supply of goods by market players like Amazon, Napthol, etc but the implementation of the policy is not in accordance with rules or law. We find many errors committed in implementing the policy by the 2nd respondent and hence intervention of the Tribunal is called for.

XI. In view of what has been said above it is lucid that the 2nd respondent has manifested an indecent haste in implementing the restructuring order of 27.5.2016 of the 1st respondent totally disregarding the kindred rules and legal principles to be followed in implementing the policy. Consequently, we are constrained to remand the matter back to the respondents to examine and review the promotions ordered on 17.5.2018 and 14.5.2019 keeping in view the relevant rules, DOPT instructions, legal principle relating to reservations in promotion as were elaborately referred to and discussed above. The respondents are granted 6 months time from the date of receipt of this order to review and issue orders as deemed fit in accordance with rules and law. Till such orders are issued those promoted vide orders dated 17.5.2018 and 14.5.2019 shall continue to work in the promoted posts so that operational difficulties do not arise in the field and, their promotions are deemed provisional.

XII. With the above directions, the OAs are disposed of. MAs stand disposed. No order as to costs."

The issue involved in the present OA and OA Nos. 515/19 & 517/2019 being exactly the same, the order passed in the said OAs squarely applies to the present OA. This OA is accordingly disposed of in terms of the order in OA Nos. 515/19 & 517/19 dt. 19.08.2020. Consequently, MAs stand disposed. No order as to costs.

(B.V.SUDHAKAR)
MEMBER (ADMN.)

(ASHISH KALIA)
MEMBER (JUDL.)

Vl/evr