

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
AT HYDERABAD**

OA/21/980/2014

HYDERABAD, this the 12th day of August, 2020



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

Basavaraju Sambasiva Rao,
S/o.Gurunadham,
Aged about 44 years,
Working as Mail Overseer,
Nalgonda North Sub Division,
Nalgonda Division.

... Applicant

(By Advocate: Mr.M. Venkanna)

Vs.

1. Union of India rep. by its
Secretary to the Government of India,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General,
A.P. Circle, Dak Sadan,
Abids, Hyderabad – 500 001.
3. The Director of Postal Services,
O/o. The Postmaster General,
Hyderabad Region,
Hyderabad – 500 001.
4. The Superintendent of Post Offices,
Nalgonda Division,
Nalgonda – 508 001.

...Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC)

ORDER (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

2. The OA is filed challenging the reversion of the applicant from the post of Mail Overseer to that of Postman.



3. Brief facts are that the applicant, on being appointed as Postman on 22.11.1994 on compassionate basis, was promoted as Mail Overseer on adhoc basis vide Memo dtd. 4.10.2005 with the proviso that the promotion would be terminated if eligible TBOP/BCR official are available to be posted to the post. Thereafter, on 25.6.2014 notice was issued to the applicant and thereafter, adhoc promotion of the applicant as Mail Overseer was terminated on 8.8.2014. Aggrieved, OA has been filed. Tribunal, as an interim measure, has ordered status quo as on 25.8.2014 to be maintained.

4. The contentions of the applicant are that the notice was issued based on bald allegations. The condition that the promotion would be terminated if TBOP/BCR officials are available is incorrect since as per Recruitment Rules, a Postman with 10 years experience is eligible for being promoted as Mail Overseer. He has also cited a letter dt. 23.08.2012 issued by the CPMG, AP Circle in support of his contention. Nine Mail Overseer vacancies were available and the applicant was 4th in the seniority list. If the DPC was conducted in time, applicant would have been selected in 2005 itself. Not conducting DPC even when vacancies are available is against law. No disciplinary proceedings were initiated against the applicant to demote him as Postman.



5. Respondents, in the reply statement, state that the applicant, though was not a Selection Grade Postman, was promoted on adhoc basis as Mail Overseer after he expressed willingness to work in the said post without any pay benefit. After noticing the poor performance of the applicant, he was asked to explain formally and advised informally, but he did not respond and hence, the adhoc promotion was terminated on 8.8.2014. The Mail Overseer post is not reckoned as a promotional post after the introduction of TBOP Scheme in 1983 and MACP scheme in 2008 respectively. Postmen promoted under TBOP scheme are eligible to be promoted as Mail Overseer. No DPC is required to post a Postman as a Mail Overseer. As there were no TBOP Postmen in the division, the applicant, who too was not a TBOP Postman, but, on expressing willingness, was posted as Mail Overseer on adhoc basis without any pay benefit. Relevant rules have been followed in posting the applicant as Mail Overseer and while reverting him to the Postman cadre as well. A single Divisional Gradation list for Postmen, Head Postmen and Mail Overseer was issued on 1.7.2014 and circulated. Applicant is not the senior most Postman in the division. DPCs are being regularly conducted to promote Postman under TBOP Scheme. Applicant had alternate remedies, which, he did not exhaust before approaching the Tribunal.

6. Heard both the counsel and perused the pleadings on record. Ld. Counsel has prayed that the applicant be considered for the promotion to the post of Mail Overseer on a regular basis given the passage of 6 years after filing of the OA. Learned Respondents counsel informed that the

applicant was continuing in the post of Mail Overseer on adhoc basis as per the interim order of the Tribunal.



7. I. The issue revolves around the decision of the respondents to revert the applicant from the grade of Mail Overseer to Postman. The applicant was promoted as Mail Overseer on adhoc basis in accordance with Postal Directorate letter dated 31.7.1987 and on observing his work performance, respondents did call for his explanation and thereafter, terminated the adhoc promotion on 8.8.2014. The applicant claiming that the reversion was based on bald allegations is not justifiable as the Mail Overseer, is expected to oversee the functioning of the Branch Post Offices in his beat. He has to perform an important function of keeping an eye on the working of the Branch Post Offices in terms of educating the Branch Postmasters, watching their work through visits and be alert to prevent any misdoings at the Branch Post Offices. Such being the intrinsic role of a Mail Overseer, if the applicant did not perform well on being chosen for the role on adhoc basis, then the applicant cannot turn around and blame the respondents for his incapability to perform. The promotion is on a purely adhoc basis and hence, the question of issuing disciplinary proceedings to terminate the said promotion does not arise. Therefore, the interim order based on which the applicant is allowed to work on adhoc basis as Mail Overseer has to be vacated and accordingly ordered.

II. However, Ld. Counsel for the applicant asserted that as per Rule 281 laid down in P & T Manual Volume IV, Part-I, extracted hereunder, Mail Overseer Post is promotional post.

“281. Appointment to the post of branch postmasters, overseers, overseer postmen, sorting or reader postmen and head postmen should be made by promotion of postmen and village postmen. Such appointments will normally be made in order of seniority but the appointing authority may, in his discretion pass over any senior official whom, he does not consider fit for such appointment. A single gradation list should be maintained for the holders of all these posts which should be made interchangeable.”

Besides, Appendix No.4 to Part 2, of P & T Manual Volume IV, which reads as under, was also cited to support the contention that on promotion a postman is posted as Mail Overseer:



Appendix No.4
SCHEDULE OF POSTS, PROMOTIONS TO WHICH INVOLVES ASSUMPTION OF GREATER RESPONSIBILITY

Post from which transferred or promoted <i>Gazetted</i>	Scale (as revised by Pay Commission)	Post promotion to which involves assumption of greater responsibility <i>Gazetted</i>	Scale (as revised by Pay Commission)
1	2	3	4
11. Postmen, village postmen and mail guards	Rs.75/95	Departmental branch postmasters, overseers, overseer postmen, sorting and reader postmen and head postmen	Rs.80/110

On the contrary, respondents rely on the Postal Directorate instruction dated 31.7.1987, the relevant portion of the said letter reads as under:

“...It has been decided that in a Postal Unit Selection Grade Postman promoted under Time Bound One Promotion Scheme is not available to fill up vacant post of Sorting Postmen/ Head Postmen/ Mail Overseer etc., Postman Cadre official with minimum of 3 years of regular services in the grade be promoted purely on adhoc and temporary basis as Sorting postmen/ Head Postmen/ Mail Overseer till such time a Selection Grade Postman promoted under Time Bound One Promotion Scheme becomes available in order to fill up such vacancy on regular basis.”

As per the above instruction, only a Selection Grade Postman, who got TBOP is eligible to be considered to be posted as Mail Overseer on regular basis.

III. The respondents' stand is that the applicant has not been granted TBOP to be eligible to be considered for Mail Overseer post on a regular basis, which was not denied by the applicant by filing a rejoinder to the reply nor during submissions made before the Tribunal.



Respondents claim that there are 5 seniors to the applicant in the gradation list, but they did not enclose the gradation list. Be that as it may, the applicant asserts that DPC has to meet to promote the applicant on a regular basis as Mail Overseer in terms of the Rule 281 cited. Respondents have not stated as to whether the rule laid in P&T Manual referred to has been amended consequent to the introduction of the TBOP & MACP Schemes. An executive instruction like the one dated 31.7.1987 of Postal Directorate cannot prevail over the statutory Rule 281 as laid down in the P&T Manual Volume IV under reference. Therefore, in view of the above, the respondents are directed to consider the case of the applicant for promotion to the post of Mail Overseer, as per his eligibility in accordance with applicable Recruitment Rules and law. Time allowed to implement the judgment is 4 months from the date of receipt of this order.

IV. With the above direction, the OA is disposed of with no order as to costs.

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

(ASHISH KALIA)
MEMBER (JUDL.)

al/evr