

**Central Administrative Tribunal
Madras Bench**

OA/310/01408/2016

Dated the 28th day of April Two Thousand Twenty One

P R E S E N T
Hon'ble Mr.S.N.Terdal, Member(J)
&
Hon'ble Mr.C.V.Sankar, Member(A)

S.Vijayan,
71-B, Anbu Nagar,
Hasthampatty,
Salem 636 007.Applicant
By Advocate **M/s.Lesi Saravanan**

Vs.

1. Union of India, rep. by the
Assistant Director General (Vig.II),
Government of India,
M/o Communications & IT,
D/o Posts, Dak Bhawan,
Sansad Marg,
New Delhi 110 116.
2. The Chief Postmaster General,
Tamilnadu Circle,
Anna Salai, Chennai 600 002.
3. The Assistant Postmaster General(Staff),
for Chief Postmaster General,
Tamilnadu Circle,
Chennai 600 002.Respondents

By Advocate **Mr.G.Dhamodaran**

ORDER
[Pronounced by Hon'ble Mr.S.N.Terdal, Member(J)]

The relief prayed for in this OA is as follows:-

“to call for the records on the file of the third respondent in connection with the order passed by him in his proceedings No.STC/1-5/11(A) Vol.II dated 04.07.2016 and quash the same and direct the respondents to grant him promotion to the JTS Group A on par with his juniors with effect from the date of their promotion on notional basis and consequently grant all the monetary benefits inclusive of revision of pension to which the applicant is eligible or pass any other appropriate order or direction as this Tribunal may deem fit in the circumstances of the case and thus render justice.”

2. Heard Mr.Lakshmi Narayanan for the applicant and Mr.G.Dhamodaran for the respondents. Perused the OA and all the pleadings.
3. The relevant facts of the case are that a Charge Memo was issued to the applicant on 10.4.2006 in furtherance of holding Disciplinary Proceedings initiated against the applicant under Rule 14 of CCS (CCA) Rules, 1965. The said proceedings went on for a long time. In the meantime, the willingness of all eligible officers was sought for promotion to the post of Junior Time Scale Group A Cadre (JTS) by the Postmaster General (PMG), Western Region, Coimbatore, on 29.12.2011 and the applicant also submitted his willingness. But, however, the said PMG did not recommend the case of the applicant as on that date the Disciplinary Proceeding initiated against the applicant under Rule 14 of the CCS(CCA) Rules, 1965 as stated above was pending, and as such, he was not considered for promotion on adhoc basis to the post of JTS Group A Cadre, as per the DOPT Instructions contained in the

letter No.28036/2/98-Estt(D) dated 23.2.1999. The further relevant facts are that the applicant had filed OA No.939/2008 challenging the Charge Memo dated 10.4.2006 before this Tribunal and that by order dated 19.3.2010, this Tribunal directed the respondents to complete the departmental proceedings within 6 months and that thereafter in the WP No.22859/2010 filed by the respondents, the Hon'ble High Court of Madras upheld the order dated 19.3.2010 passed by the Tribunal and directed the respondents to complete the disciplinary proceedings within 6 months which expired on 27.5.2012, and that thereafter the respondents had filed application for extension of time which was rejected by the Hon'ble High Court of Madras by order dated 8.8.2012. In the meantime, the applicant had retired on 31.7.2012. As the departmental proceedings had not yet been completed, the applicant filed another OA No.514/2013 and in the said OA, by order dated 05.10.2015, the said Charge Memo was quashed and set aside. Thereafter, the respondents had granted the applicant Non-Functional Upgradation retrospectively w.e.f. 01.10.2009 in compliance with the said order dated 5.10.2015.

4. In view of the above relevant facts, the case of the applicant as per his representation dated 9.5.2016 is that though the respondents had granted Non-Functional Upgradation in the Grade Pay, but, however, they should have considered him for grant of adhoc promotion to the post of JTS Group 'A' Cadre notionally as the said Charge Memo was set aside. The said representation of the applicant dated 9.5.2016 was rejected by the respondents by order dated 4.7.2016. The applicant has challenged the same in this OA.

5. Counsel for the respondents submitted that the applicant had already retired from service as on 31.7.2012 and that adhoc promotions are made only for meeting the exigency of work and only when the posts cannot be kept vacant until regular promotion are effected, and that at the time of consideration of the applicant for adhoc promotion, Disciplinary Proceedings were pending against the applicant and, therefore, his case was rightly not recommended though his juniors were considered for the adhoc promotion. In support of his submission he referred to the averments made by the respondents in para-10 of their reply statement which is extracted below:-

“10. It is submitted regarding averments made in paragraph 4(H) to (I) of the Original Application that the applicant, made a representation dated 08.11.2011 to the second respondent, requesting for promotion to JTS Group 'A' cadre on adhoc basis which was considered and rejected by the second respondent vide letter No.STC/1-5/11(A)Vol.II dated 30.12.2011 as a charge sheet under Rule 14 of CCS (CCA) Rules, 1965 was pending against the applicant. Again the applicant submitted a representation on 09.5.2016 requesting for promotion to the cadre of JTS Group 'A' on notional basis with retrospective effect. The request of the applicant was duly considered and rejected vide second respondent letter No.STC/1-5/11(A)Vol-II dated 04.07.2016, whereas the applicant had already retired from service on superannuation on 31.07.2012. For the said reasons, the request of the applicant for adhoc promotion to JTS Group 'A' cadre on notional basis with retrospective effect could not be granted. Further, adhoc promotions are made for exigencies of work, where the post cannot be kept vacant until regular candidates become available at a particular time. Since disciplinary proceedings were contemplated against the applicant at the time when adhoc promotion orders in respect of his

juniors were issued, he is not entitled for adhoc promotion in JTS of IpoS Group 'A' at par with his juniors."

6. We have perused the impugned order dated 4.7.2016. The counsel for the applicant could not point out anything which is unreasonable or arbitrary or contrary to any law in the said order except stating that the respondents should have considered his case for adhoc promotion notionally as this Tribunal quashed the Charge Memo ultimately as on 5.10.2015 and that on the basis of the said order dated 5.10.2015 the respondents had granted him Non-Functional Upgradation retrospectively w.e.f. 01.10.2009. The impugned order dated 9.7.2016 is extracted below:-

"DEPARTMENT OF POSTS
O/o THE CHIEF POSTMASTER GENERAL, TAMIL NADU CIRCLE, CHENNAI 600 002

To
Shri S. Vijayan,
Retr. Sr. PM, Salem HO,
Now at 71B, Anbu Nagar,
Manakkadu, Hasthampatty,
Salem 636 007.

No.STC/1-5/11(A) Vol.II dated at Chennai 600002 the 04/07/2016

Sub: Request for promotion to JTS Group 'A' cadre on adhoc basis – Reg.
Ref: Your representation dated 09/05/2016

Kindly refer to your representation cited above wherein you have requested for promotion to JTS Group 'A' cadre on adhoc basis on notional basis.

In this regard, I am directed to intimate the following:

Your representation dated 08/11/2011 addressed to the Chief PMG, requesting for promotion to JTS Group 'A' cadre on adhoc basis was considered and rejected by the Chief PMG vide this office letter of even number dated 30/12/2011, as a Rule 14 case was pending against you at that time.

Also, while willingness was called for from among eligible PS Group 'B' officers to officiate in JTS Group 'A' posts on adhoc basis by this office on 29.12.2011, the PMG, Western Region, Coimbatore has forwarded your willingness letter with a remark that your case was not

recommended by the PMG, Western Region, Coimbatore and hence your case was not considered for promotion to JTS Group 'A' cadre on adhoc basis as per the DOPT's instructions contained in letter No.28036/2/98-Estt(D) dated 23/02/1999.

As per the orders of Hon'ble CAT, Madras Bench in OA 514/2013, Directorate vide its memo dated 17/03/2016 has dropped the disciplinary proceedings initiated against you vide memo no.STB/14010-6/EDE/2006 dated 10/04/2006 of DPS, Western Region, Coimbatore and hence the non-functional upgradation of grade pay of Rs.5400/- has been awarded to you w.e.f. 01/10/2009 vide this office memo no.STC/1-6/NF/Dlgs/2008 dated 04/05/2016 and thus the orders of Hon'ble CAT, Madras Bench in OA 514/2013 has been complied with.

The Rule 14 charge sheet issued vide memo no.STB/14010-6/EDE/2006 dated 10/04/2006 of DPS, WR has been dropped by Directorate by its orders dated 17/03/2016 only, whereas you had retired from service on 31/07/2012 itself. Hence your request for adhoc promotion to JTS Group 'A' cadre on notional basis with retrospective effect could not be conceded to.

This is for your information.

(S.Arumugam)
Asst. Postmaster General (Staff)
for Chief Postmaster General
T.N.Circle, Chennai-600 002
044-28520390 & Fax-28521538
email:apmgstaffchennai@gmail.com"

7. From the perusal of the above IMPUGNED order, it is crystal clear that it is a reasoned and well considered order based on the DOPT OM dated 23.2.1999 and it does not suffer from any illegality. This OA is based on no valid or legal grounds and accordingly, OA is dismissed. No costs.

(C.V.Sankar)
Member(A)

28.04.2021

(S.N.Terdal)
Member(J)

/G/