



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 111/2021
(SWP No.127/2016)

Monday, this the 22nd day of February, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Mohammad Ayoub Masoudi

...Applicant

(Mr. Tasaduq H. Khawja, for the applicant)

Versus

Union of India and Others

...Respondents

(Mr. Amit Gupta, Addl. Advocate General, for the respondents)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:



The applicant was taken as Gramin Dak Sevak in the establishment of Assistant Superintendent of Post Offices, West Sub Division, Srinagar. Thereafter, he was promoted to the post of MTS through an order dated 18.01.2016. Within four days thereafter an order was issued on 22.01.2016 stating that the applicant was engaged as GDS at a time when he was below 18 years and on a perusal of the certificate issued by the Department of Education, it emerged that the applicant was erroneously approved by the DPC at its meeting held on 31.12.2015. On that basis the promotion of the applicant to the post of MTS was cancelled with immediate effect. Challenging the said order, the applicant filed SWP.127/2016. An interim order was passed on 22.02.2016 directing the respondents to continue the applicant as MTS till the next date of hearing.

2. The respondents filed a detailed counter affidavit. According to them, the records of the applicants were verified at the time of promotion and it was realized after the issuance of the order of promotion that the applicant has to his credit, the child

service. It was also mentioned that even if the period of child service is treated as proper, and his service is considered for promotion, vacancies for the relevant period are not available.

3. The SWP has since been transferred to the Tribunal in view of re-organization of the State of Jammu and Kashmir and re-numbered as TA No. 111/2021.

4. Today, we heard Mr. Tasaduq H. Khwaja, learned counsel for the applicant; and Mr. Amit Gupta, learned Additional Advocate General, on behalf of the respondents, and perused the records.

5. A perusal of the order dated 18.01.2016 discloses that the case of the applicant and three others were considered by the DPC for promotion to the post of MTS and on the basis of the recommendations, the promotion was ordered. It is four days thereafter that the impugned order dated 22.01.2016 was passed. The only reason mentioned is that according to the certificate issued by the J&K Board of School Education, the applicant did not attain the age of 18 years when he was appointed as GDS on 12.12.1981. His date of appointment was changed to 10.11.1982, excluding the period during which he was minor. Same facility could have been extended at the stage of promotion to MTS also.



It is not as if the applicant fell short of any residency period in the lower post. The place of seniority of the applicant can be suitably modified as was done in the case of initial appointment. If the applicant fell short of the standing or residency period from the date of his deemed appointment, the date of his promotion also can be modified.



6. We therefore allow the TPA and set aside the impugned order dated 22.01.2016. It is left open to the respondents to fix appropriate date of promotion of the applicant as well as the place in the seniority. In case any of the candidates suffer the infirmity i.e. the child service, the same shall be considered.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 22, 2021
/sunil/akshaya/sd