

12

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 120 OF 2013
Cuttack, this the 13th day of March, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R.C. MISR, MEMBER (ADMN.)

S.P.Rajalingam,
Aged about 59 years,
S/o.Late S.Pitchai Pillai,
At/Po-Ayilur,
Dist. Perambalur,
Tamilnadu-621130
(Presently posted as Postmaster General
of Berhampur Region of Odisha Postal Circle),
At/Po/Town-Berhampur (760001),
Dist. Ganjam.

...Applicant
(Advocate(s) : M/s. R.N.Mishra,M.R.Das)

VERSUS
Union of India Represented through

1. Secretary to Government of India,
Department of Posts,
At-Dak Bhawan,
New Delhi-110 001.
2. Member (P) of Postal Services Board,
At-Dak Bhawan,
New Delhi-110 001.
3. Member (O) of Postal Services Board,
At-Dak Bhawan,
New Delhi-110 001.
4. Union Public Service Commission,
represented through its secretary,
At-Dholpur House on Shahjahan Road,
New Delhi.

... Respondents
(Advocate: Mr. S.Barik)

13

O R D E RA.K.PATNAIK, MEMBER(J):

The relief sought in this Original Application filed U/s. 19 of the Administrative Tribunals Act, 1985 by the Applicant (S.P.Rajalingam), at present working as Postmaster General of Berhampur Region of Odisha Postal Circle is as under:

- “(i) The uncommunicated adverse remarks/below bench-mark grading given in the ACRs of the applicant (for years 1997-1998, 1998-1999, 1999-2000, 2000-2001) be directed to be expunged/ignored/set aside; for they were recorded arbitrarily, in gross violation on principles of natural justice under Article 14 of the Constitution of India;
- (ii) The action of the DPC dated 14.11.2003 in declaring the Applicant as “unfit” for promotion be set aside/quashed (under Annexure-A/3, Page 38);
- (iii) As a consequence the Respondents be directed to antedate the promotion of the Applicant (to the Senior Administrative Grade (PMG) w.e.f. from the date of promotion of his juniors and also to give further promotion to CPMG w.e.f. the date his juniors have already got the said promotion.”

2. Heard Mr.R.N.Mishra, Learned Counsel appearing for the Applicant and Mr. S.Barik Learned Additional CGSC on whom copy of this OA has been served, for the Respondents and perused the records.

Aver

Q

14

3. Mr.Mishra's contention is that as per the settled law one cannot be debarred for promotion based on uncommunicated adverse remarks in the CCRs nor the adverse CCRs on which representation filed by an employee is under consideration. In the instant case, the name of the applicant could not be recommended by the DPC ~~met~~ (for selection of Officers for promotion to the Senior Administrative Grade of Indian Postal Service) as against the vacancies of the year 2003-2004 based on some of the adverse remarks in his CCRs which had never been communicated to the applicant and on the recommendation of the DPC (during February, 2004) ~~to~~ six of his juniors were promoted to Senior Administrative Grade ignoring the case of the applicant which is not sustainable in the eyes of law. Further contention of Mr.Mishra is that in the subsequent DPC held for promotion against the vacancies of 2004-2005 and 2005-2006 though the applicant achieved the bench mark in his CCRs his case has not received due consideration and there has been supersession. It has been contended by him that the Applicant has ventilated his grievance through representation dated 20.6.2012 before the

Alec

15

Member (Personnel), Postal Services Board, Dak Bhawan, New Delhi-110001, Respondent No2 but there is no response till date despite the fact that the applicant is going to retire on reaching the age of superannuation at the end of August, 2013. Hence Mr.Mishra has sought intervention by this Tribunal in the matter.

4. On the other hand, Mr.S.Barik, Learned Additional CGSC appearing for the Respondents opposed the maintainability of this OA on the ground of pendency of the representation before the competent authority i.e. Respondent No.2.

5. We find that applicant submitted representation on 20.6.2012. According to him he will be retiring in the month of August, 2013. Meanwhile eight months have been elapsed but he is yet to get any reply on his representation.

The Hon'ble Apex Court India in the case of **S.S.Rathore –Vrs- State of Madhya Pradesh, 1990 SCC (L&S) 50 (para 17)** held as under:

“17.Redressal of grievances in the hands of the departmental authorities take an unduly long time.

P

16

That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be deprecated and authorities on whom power is vested to dispose of the appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible. Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation."

6. In view of the above, we find grounds to interfere in the matter by way of issuing direction to the Respondent No.2 to consider the representation without any delay especially taking into consideration the date of retirement of the Applicant. Accordingly, without expressing any opinion on the merit of the matter, this Original Application is disposed of at this admission stage, with direction to the Respondent No.2 to consider and dispose of the said representation of the applicant dated 0.06.2012 in a reasoned order and communicate the same at an early date preferably within a period of thirty days from the date of receipt of copy of this order. There shall be no order as to costs.

7. Copy of this order along with paper book be transmitted to the Respondent No.2 by SPEED POST at the cost of the Applicant; for which Mr. Mishra, Learned Counsel for the

W.L.

17

Applicant undertakes to furnish the postal requisite in course of
the day.

R.C. Misra
(R.C. Misra)
Member (Admn.)

A.K. Patnaik
(A.K. Patnaik)
Member (Judl.)