

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. Nos. 323/2013, 324/2013 & 325/2013

Jodhpur this the 27th January, 2014.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms Meenakshi Hooja, Member (A)**

1. S R Prajapati S/o Shri Pukha Ram, aged about 53 years, resident of Village and Post-Rampura via Chadawar, Distt. Pali-Marwar, at present employed on the post of Sub-Postmaster Sojat Road Distt. Pali-Marwar.

Applicant in OA No. 323/2013

2. Dhan Singh Ranawat S/o Shri Jor Singh, aged about 57 years, resident of Village and Post-Kherwa, Distt. Pali-Marwar, at present employed on the post of APM Marwar Jn, Distt. Pali-Marwar.

Applicant in OA No. 324/2013

3. Deepa Ram Bhati S/o Shri Hindu Ram Bhati, aged about 55 years, resident of Village and Post-Lalrai via Mundara, Tehsil Bali, Distt. Pali-Marwar, at present employed on the post of SPM Bali SO, Distt. Pali-Marwar.

Applicant in OA No. 325/2013

(Through Adv. Mr J.K. Mishra)

Versus

1. The Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communications & IT, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. Post Master General, Rajasthan Western Region, Jodhpur.
4. Superintendent of Post Offices, Pali Division, Pali (Raj)

Respondents No. 1 to 4, common in OA Nos. 323, 324, 325 of 2013

5. Shri Ganpat Lal Solanki, APM (SB), Jalore HO

Respondents No.5 in OA No. 323/ 2013

6. Shri Jaswant Singh Gaur, APM (Mail), Pali HO

Respondents No.5 in OA No. 324/ 2013

(Through Adv. Ms K. Parveen)

ORDER (Oral)

Per Justice K.C. Joshi

We are going to decide OA Nos. 323 to 325 of 2013 by this common order because in all these applications relief claimed is common in nature and order Annex. A/1 by which the representations of the applicants regarding declination of the promotion has been rejected is also common.

2. The brief facts of the case as averred by the applicants are that the applicants were initially appointed to the post of Postal Assistant in the respondent-department and in due course earned their further promotions upto the post of LSG (NB). Shri S.R. Prajapati, applicant in OA No. 323/2013 is posted at Sojat Road as SPM Sojat Road, Shri Dhan Singh Ranawat, applicant in OA No. 324/2013 is posted at Marwar Junction as APM Marwar Junction and Shri Deepa Ram Bhati is posted at Bali as SPM Bali. All the applicants have been ordered to be posted on promotion to the

post of HSG-II (NB) in the grade pay of Rs 4200/- in the pay band of Rs 9300-34800 vide composite order of transfer cum promotion dated 25.06.2013 (Annex. A/2) and 4th respondent has also passed a follow up order dated 27.06.2013 (Annex. A/3). With reference to annotation in the aforesaid order that "*In case of any of the officials is not interested to assume promoted post, he/she may decline the offer of promotion within 07 days from date of issue of posting orders otherwise he/she may be relieved by the competent authority.*", the applicants immediately submitted their declination letter for promotion to the said post but the same have been rejected by the competent authority on the ground that the reasons adduced by the officials for declination to promotion are not acceptable and the applicants may be relieved for the promoted posts. Thus, the applicants have filed these OAs praying to quash the Annex. A/1 qua the applicants by which their declination to promotion to HSG-II (NB) has been rejected by the competent authority on the ground that reasons adduced by the officials for their refusal to take promotion are not acceptable.

3. The applicants in OA Nos. 323 & 324 of 2013 have also averred that they came to know that respondent No. 5 viz. Shri Ganpat Lal Solanki and Jaswant Singh Gaur, are being posted vice them. The applicants further

averred in the application that the similar issue came up for adjudication before the Allahabad Bench of Central Administrative Tribunal in case of OA No. 149/2012 Raj Kumar vs Union of India & Ors and which has been decided vide order dated 10.09.2012 (Annex. A/5).

4. By way of reply, the respondent-department has averred that the applicants have been granted maximum number of financial upgradation (i.e. three) and they have rendered all their service near their native places prior to regular promotion in the HSG-II (NB). Now, when they are posted on their regular promotion on the vacant post available, they declined promotion without any justified reasons whereas they are getting the benefits of maximum financial upgradation. It has been further averred in the reply that an official may decline the promotion but he has no legal right for acceptance of the same. As it is clear from the declination letters, the reasons adduced by the applicants are not justified and acceptable. Hence, the action of the competent authority is just, fair and proper in the interest of the Department. It has been further averred in the reply that in the policy guidelines issued by DoPT dated 01.10.1981, with reference to Rule (13) of CCS (CCA) Rules, 1965 it has been provided that in the cases where the reasons adduced by an officer for his refusal of promotion are not acceptable

to the appointing authority, then, he should enforce the promotion of the officer and in case the officer still refuses to be promoted, then, even disciplinary action can be taken against him for refusing to obey the orders. Therefore, respondents have prayed to dismiss the OA with costs.

5. Heard both the parties.

6. Counsel for the applicant contended that the order Annex. A/2 was passed on 25.06.2013 and communicated to the applicants on 27.06.2013 thereafter the applicants moved representation within a week from the date of communication of the order for declination of the promotion for some reasons. The representation was moved with reference to the provision in the order itself that "*In case of any of the officials is not interested to assume promoted post, he/she may decline the offer of promotion within 07 days from date of issue of posting orders otherwise he/she may be relieved by the competent authority.*" The respondent-department rejected the representation by way of non-acceptance and posted the applicants to different places on promotional post. Counsel for the applicant further contended that in the similar matters, the CAT Allahabad Bench vide order dated 10.09.2012 in OA No. 149/2012 quashed the order of the non-acceptance of representation of the applicants regarding declination of while

relying upon the order dated 22.06.2012 passed by Madras Bench in OA No. 72/2012 in a similar case.

7. Per contra counsel for the respondents contended that the representations of the applicants were found wanting in justifications and the reasons adduced were not acceptable, therefore, the same have been rejected by the competent authority.

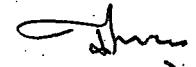
8. Heard both the parties and considered the rival contentions.

9. The issue in these OAs pertains to rejection by the competent authority of the reasons for declination of promotions as not acceptable. In a similar matter, the Central Administrative Tribunal, Allahabad Bench in OA No. 149/2012 in its order dated 10th Sept., 2012 while relying to the judgment of Madras Bench passed in OA No. 72/2012 dated 22.06.2012 quashed such order of non-acceptance of the representations for declination to the promotion and we see no reason to differ from the views taken by the Madras Bench as well as Allahabad Bench of Central Administrative Tribunal, therefore, orders Annex. A/1, in all these three OAs, is quashed.

10. Accordingly, OA Nos. 323 to 325 of 2013 are allowed and the interim order passed in these OAs is hereby made absolute with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member

SS/


(JUSTICE K.C.JOSHI)
Judicial Member