CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No.339/2013

Jodhpur this the 21st of March, 2014.

CORAM

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

Mani Ram Bijarnia S/o Late Shri Hanuman Singh, aged about 59 years, by caste Jat, R/o Durga Colony, Nohar, District Hanumangarh. (employed as SPM at Nohar Post Office).

Applicant

(Through Adv. Mr S.P. Singh)

Versus

1. Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. Post Master General, Rajasthan Western Region, Jodhpur.
4. Assistant Director Postal Services, Rajasthan, Western Region, Jodhpur-342001.
5. Superintendent of Post Offices, Sriganganagar Division, Sriganganagar-335001.

Respondents

(Through Adv. Ms K. Parveen)

ORDER (Oral)

Per Justice K.C. Joshi

By way of this application, the applicant has challenged the legality of the order at Annex.-A/1 by which the representation of the applicant regarding declination of the promotion has been rejected by the respondent department.

2. The brief facts of the case as averred by the applicant are that the applicant was appointed to the post of Postal Assistant in the respondent-department on 22.02.1978 and in due course earned his further promotions upto the post of LSG (NB) and is presently posted as SPM Nohar LSC SO. It has been further averred that the applicant has been ordered to be posted on promotion to the post of HSG-II (NB) as APM (A/c) Sriganganagar HPO in the grade pay of Rs.4200/- in the pay scale of Rs.9300-34800 vide composite order of transfer-cum-promotion dated 25.06.2013 (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 applicant immediately submitted his declination letter dated 29.06.2013 for promotion to the said post but the same has been rejected by the competent authority on the ground that the reasons adduced by the official for declination to promotion are not acceptable and the applicant may be relieved for the promoted posts. Thus, the applicant has filed this OA praying to quash the Annex.A/1 qua the applicant by which his declination to promotion to HSG-II (NB) has been rejected by the competent authority on the ground that reasons adduced by the official for his refusal to take promotion are not acceptable.

3. The applicant 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 applicant has been granted maximum number of financial upgradation and he has rendered all his service near his native places prior to regular promotion in the HSG-II (NB). Now, when he is posted on his regular promotion on the vacant post available, he declined promotion without any justified reasons whereas he is 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 letter, the reasons adduced by the applicant 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/3 was passed on 25.06.2013 and thereafter the applicant moved representation within a week from the date of communication of the order for declination of the promotion for some reason. 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 directed that the applicant be relieved and be directed to join as APM (A/c) Sriganganagar HPO 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 applicant 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; and in identical/similar matter, this Tribunal has set aside the order of non-acceptance of declination of promotion in OAs No.323/2013, 324/2013 & 325/2013 decided on 27th January, 2014 and also in the OA No.329/2013 decided on 10th of February, 2014. This matter is also squarely covered by the aforesaid judgment of this Tribunal.

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

8. Considered the rival contentions of both the parties and also perused the record available.

9. The issue in this OA 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. Based on the aforesaid judgment, we had also set aside the order of non-acceptance of declination of promotion in OAs No.323/2013, 324/2013 & 325/2013 vide our order dated 27.01.2014 and in OA No.329/2013 vide order dated 10.02.2014. The facts and issues of this case are identical & similar, and we see no reason to differ from our earlier judgment. Accordingly, the order at Annexure-A/1 in this OA is quashed

10. The OA is thus allowed with no order as to costs.

(MEENAKSHI HOOJA)
Administrative Member

(JUSTICE K.C.JOSHI)
Judicial Member

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