

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**Original Application No. 354/2013**

Jodhpur, this the 17<sup>th</sup> day of February, 2014

**CORAM**

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)  
Hon'ble Ms Meenakshi Hooja, Member (Administrative)**

D R Choyal S/o Shri Sanwata Ram, aged about 56 years, resident of Near Bangur Hospital, Didwana, Distt. Nagaur, at present employed on the post of APM Didwana HPO Distt. Nagaur,

.....Applicant

By Advocate: Mr J.K. Mishra.

**Versus**

1. Union of India through the 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, Nagaur Division, Distt. Nagaur (Raj).

.....Respondents

By Advocate : Ms K. Parveen.

**ORDER (Oral)**

**Per Justice K.C. Joshi, Member (J)**

The present OA has been filed by the applicant to quash order Ann. A/T dated 06.08.2013 by which respondent-department

rejected the applicant's declination to promotion, therefore, he has prayed for the following reliefs:-

- I. ***That impugned order dated 06.08.2013 (Annexure A/1), issued by 4<sup>th</sup> respondent, may be declared illegal and the same may be quashed, qua the applicant. The respondents may be directed to accept the declination letter of the applicant for the post of HSG-II and he may be allowed to remain on his substantive post of LSG (NB) as APM Didwana HPO Distt. Nagaur and allowed all consequential benefits.***
- II. ***That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.***
- III. ***That the costs of this application may be awarded.***

2. The brief facts of the case as averred by the applicant are that the applicant was initially appointed to the post of Postal Assistant (Erstwhile Time Scale Clerk) on 03.10.1978 in the respondent-department at Makrana. In due course he earned his further promotions and lastly promoted to the post of LSG (NB) on 21.12.2009 and posted as APM Didwana HPO. The applicant has 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 4<sup>th</sup> 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 applicant immediately submitted his declination letter dated 29.06.2013 for promotion to the said post on the ground that due to his peculiar family circumstances he is not willing to take promotion but the same has 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 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. The applicant averred in the application that the similar issue came up for adjudication before the Allahabad Bench of Central Administrative Tribunal in OA No. 149/2012 Raj Kumar vs Union of India & Ors, which has been decided vide order dated 10.09.2012 (Annex. A/5).

3. By way of reply, the respondent-department has averred that the applicant has been granted maximum number of financial upgradation (i.e. three) and he has rendered all his service in Nagaur district 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 that 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 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 applicant, thereafter the applicant 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 applicant to Dholpur 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 promotion while relying upon the order dated 22.06.2012 passed by Madras Bench in OA No. 72/2012 in a similar case; and in an 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 27.01.2014 and OA No. 329/2013 decided on 10.02.2014. This matter is also squarely covered by the aforesaid judgments of this Tribunal.

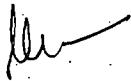
7. Per contra counsel for the respondents contended that the representation of the applicant was found wanting in justifications and the reasons adduced were not acceptable, therefore, the same has been rejected by the competent authority.

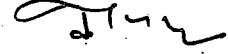
8. Considered the rival contentions of both the parties and perused the relevant material available on record.

9. The issue in the 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 10<sup>th</sup> Sept., 2012 while relying upon 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 judgments, we had also set aside the order of non-acceptance of declination of promotion in OAs No. 323/2013, 324/2013 & 325/2013 decided on 27.01.2014 and OA No. 329/2013 decided on 10.02.2014. The facts and issues of this case are identical & similar, and we see no reason to differ from our earlier judgments. Accordingly, the order Annexure A/1 qua applicant, 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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