

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 425/97

WEDNESDAY, THIS THE 12TH DAY OF JANUARY, 2000.

C O R A M:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Jose Dominic
Assistant Post Master Accounts
Head Post Office,
Kattappana
Idukki Division.

..Applicant

By Advocate Ms K. Indu

Vs.

1. Union of India represented by its Secretary
Department of Posts,
Dak Bhavan, New Delhi.
 2. The Postmaster General,
Central Region, Ernakulam.
 3. The Superintendent of Post Offices,
Department of Posts
Idukki Division,
Idukki.
 4. The Director of Postal Services,
Central Region,
Ernakulam.
- ..Respondents.

By Advocate Mr. Sunil Jose, ACGSC

The application having been heard on 22.12.99, the
Tribunal delivered the following on 12.1.2000

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This O.A. has been filed with the following reliefs:

(i) to declare that the applicant is entitled to be promoted as Assistant Post Master (Accounts) in a regular capacity under the 3rd respondent with effect from 17.8.92 from the date when he is officiating in that post.

(ii) to direct the respondents to regularly absorb

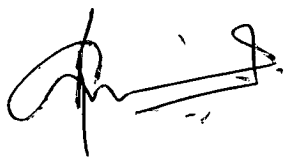
applicant as Assistant Post Master (Accounts), Kattappana Head Post Office, with effect from 17.8.92;

(iii) to direct the respondents to consider the applicant's promotion as Assistant Post Master (Accounts), among the candidates eligible as stood on 17.8.92 and not with a later date or at least within a period of one year from the date of officiating promotions;

(iv) to restrain the respondents from reverting the applicant from the post of Assistant Post Master (Accounts) till he has been regularly absorbed, and

(v) to grant such other reliefs as this Hon'ble Tribunal deem fit and proper."

2. The applicant was initially appointed as a Postal Assistant w.e.f. 23.2.83 at Head Post Office, Kattappana in Indukki Division. He qualified the Post Office and Railway Mail Service Accountant Test held on 17.5.90. He was appointed as Accountant, Kattappana Head Post Office w.e.f. 3.8.90. He was given promotion as Officiating Assistant Postmaster (Accounts), (APM(Accounts) for short) Head Post Office, Kattappana w.e.f. 17.8.92 as per A1 order. According to the applicant, he was the only qualified Accountant to be promoted as APM (Accounts) in the division and hence he was promoted. He also submitted that by A2 gradation list of Postal officials of Idukki division as on 1.7.93, he was in the category of Lower Selection Grade Accountants as APM (Accounts), Kattappana. According to the applicant, he ought to have been promoted as APM (Accounts) without posting him in officiating capacity. He was of the view that it was because of the implementation of the Biennial Cadre Review (BCR) scheme he was posted in officiating capacity. He submitted that while implementing BCR scheme the department had suggested larger post would be manned by officials of TBOP/BCR schemes and as such the Lower Selection Grade (LSG) as well as



Higher Selection Grade (HSG) had been suggested to be manned by officials included in the said scheme. According to the applicant, the post of Accountant as well as APM (Accounts) was to be given on the basis of seniority in the division. As far as posting of APM (Accounts) was concerned it was necessary that the officials should have passed Accountants' test. Rule 276-A of P & T Manual Vol. IV dealt with the promotion of Accountants in LSG. Quoting from the same he submitted that the promotion to the post of Accountant in the LSG could be done in preference to the seniors in the general gradation list who had not passed the Accounts Examination and therefore, the length of service was not at all a criteria for promotion of Accountants in LSG. He further submitted that the department was insisting arbitrarily on the basis of TBOP/BCR scheme that only those officials who were included in the scale have to be appointed as Accountant in the LSG/ Assistant Post Master and the said stand of the department was in strict violation of Rule 276-A of the P&T Manual, Vol.IV. According to the applicant he reasonably apprehended that any posting of departmental officials having no Accountant's qualification even though without experience if transferred from any division would deprive the applicant's right to get promotion. He also submitted that he was the seniormost Accountant, having experience in the division eligible to be promoted as APM (Accounts) and that there could not be any compulsion from the department to post any person from the Accounts department to that post. He submitted that apart from other seniors who were working in the general line only one Selvaraj qualified earlier than the applicant without any experience. Further, his claim for appointment as Accountant had been completely barred by the earlier rules of the Department which was in force. He submitted A3 in support of his argument. Applicant submitted that even though TBOP/BCR scheme had been

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enforced the department had promoted officials as APM (Accounts) who did not have 16 years of service. One Mr. Pudiyadavan Narayanan had been promoted as per memo dated 19.4.91 as APM (Accounts) w.e.f. 8.5.91 who did not have 16 years of service. Similarly Sri P.M. Hariswaran, RMS Accountant, Tirur, K. Arya Devi, RMS Accountant, Mancheri, K.P. Premananda Kumar and P.M. Sivasankaran etc. were promoted as APM/RMS Accountants, (Accounts) without having 16 years of service. Applicant stated that he made A4 representation dated 8.1.97 before the 3rd respondent highlighting his grievances. He further submitted A5 representation dated 4.2.97 to the Director of Postal Services, Ernakulam. He apprehended that the respondents were taking steps to fill up the post depriving his right to get posting and that they were trying to post officials without any experience.

3 Respondents filed reply statement resisting the claim of the applicant. They submitted that the applicant was appointed by R3(B) memorandum dated 1.8.90 as Accountant, Kattappana Head Post Office and he joined as Accountant on 3.8.90. When the post of Assistant Postmaster (Accounts) Kattappana Head Post Office fell vacant due to transfer of the incumbent, the applicant was posted to officiate in the vacancy by A1 memo and he was officiating in that post since 24.8.92. The pay scale of Post Office and Railway Mail Service Accountants had been revised and a separate cadre had been formed as per Director General P & T, New Delhi's R3(C) letter dated 10.11.78. Consequently, the officials were given a chance to opt either general line or Accounts line and then the LSG Accountants were given chance to opt either LSG General line or LSG Accountants line by R3(D) letter dated 23.5.79. The officials who opted for LSG Accountants line happened to be posted as officiating APM (Accounts). When TBOP was introduced in the department whereby officials who had completed 16 years of service would be promoted




to the next higher grade it was clarified by Director General (Posts) by R3(E) letter dated 16.3.88 that Post Office and Railway Mail Service Accountants would be promoted to the next higher grade from the due date of promotion under TBOP scheme on completion of 16 years. Later, BCR scheme was introduced by the Department of Posts whereby officials completing 26 years of service would be considered for promotion to the next higher grade. It was later clarified by R3(F) letter dated 24.9.96 that under TBOP/BCR scheme there was no distinction between general line and Accounts line except for the limited purpose of functional necessity and hence promotion to TBOP/BCR scheme should be implemented with reference to juniors in the common Postal Assistants/LSG Gradation list. According to respondents as per R3(F) the applicant would become eligible under TBOP scheme only on completion of 16 years of service from the date of appointment as Postal Assistant irrespective of the fact that he had passed the Post Office and Railway Mail Service Accountants Test. As regards posting of APM (Accounts) it was stated that with the introduction of TBOP and BCR schemes, the officials in the Circle who had been promoted either under BCR or TBOP schemes were being posted as APM (Accounts). In the case of the applicant, he was not eligible to be promoted under TBOP Scheme as he had not completed 16 years of service. He happened to be posted to officiate as APM (Accounts) Kattappana HPO as no TBOP/BCR official with Post Office and Railway Mail Service Accountants qualification was willing to be posted as APM (Accounts), Kattappana HPO. Since the applicant was not eligible to be promoted under the TBOP/BCR scheme he had no claim to be posted as APM (Accounts), Kattappana HPO on regular basis. Respondents further submitted that applicant's name was not shown as LSG Accountant in A2 gradation list of officials of Idukki



division. They also denied the averments that the applicant was the only Senior Accountant in the division to be promoted as APM(Accounts). They submitted that there were senior officials with Post Office and Railway Mail Services Account qualification but they were not willing to be posted as APM (Accounts) Kattappana HPO. They also submitted that it was not correct to say that Accountants as well as APM (Accounts) were in the LSG. They submitted that as per item No.1 of R3(F) there was no distinction between general line and Accounts line officials under TBOP and BCR schemes and that promotion to TBOP/BCR should be implemented with reference to juniors in the common Postal Assistants/LSG Gradation lists. Rule 276-A of the P&T Manual Vol.IV was obsolete and was no longer applicable in the matter of promotion of Post Office and RMS Accountants. Respondents submitted that the case pointed out by the applicant might have been before the issue of the order R3(F) and as of now the applicant was not eligible for promotion to the next higher grade under the TBOP scheme. As such he had no claim to be appointed as APM (Accounts) on regular basis. Further, there were many senior officials in the divisional gradation list awaiting promotion to the TBOP Scheme for want of 16 years of service. The claim of the applicant bypassing all the seniors would not be permissible and would not be in order. The attempt of the applicant was to steal a march over the seniors in the matter of promotion. They reiterated that the officials promoted under the TBOP/BCR scheme with Accounts qualification would be posted against APM (Accounts) on regular basis. They submitted that the representation submitted by the applicant was pending as the O.A. was pending before the Tribunal. They submitted that the applicant was not entitled for any of the reliefs prayed for and prayed for dismissal of the O.A.



4. In the additional reply statement filed by the respondents they submitted that the appointment of Accountants in the LSG was governed by Rule 276(A) of the P & T Manual Vol. IV. Rule 276 (A) and Rule 27(B) as contained in P & T Manual, Vol. IV was produced as Annexures R3(G) and R3(H) respectively. They submitted that when TBOP scheme was introduced in the department, radical changes had taken place in regard to posting to LSG posts. The above scheme was extended to Post Office & Railway Mail Service Accountants also on optional basis. Such Accountants would be eligible for being accommodated against the posts of LSG Accountant which were supervisory in nature. They would continue as Accountant in the LSG scale till they were appointed against supervisory posts on regular basis. A copy of the orders of the Director General Posts on the subject was produced as R3(i). They submitted that after introduction of TBOP scheme strict following of the Rules in the P & T Manual Vol. IV in the matter of promotion to LSG had lost significance. It was further submitted that the post of APM (Accounts) in Postal Circle was originally a Circle cadre and seniormost Accountants in the Circle were being promoted and posted as APM (Accounts) in LSG cadre till 8.6.94. Subsequently, as per Director General, P & T letter dated 8.6.94 the APM (Accounts) cadre was divisionalised and consequently posting of LSG APM(Accounts) were being made by Divisional Superintendent from among the qualified Accountants who had completed 16 years of service and got placement under the TBOP scheme. They submitted that the post of APM (Acct.) was an identified supervisory post which were to be filled up by LSG Accountants. With the introduction of TBOP scheme promotion to LSG was not made based on Rules 276 (A) of P & T Manual Vol. IV. Such posts were now being filled up by TBOP Accountants already available and R3(c)



and R3(1) governs the promotion to APM (Accounts) cadre. It was further submitted that posting of LSG APM (Accounts) were being made on the basis of seniority-cum-fitness and there was no direct recruitment to such posts and no special Recruitment Rules had been framed for this cadre. It was submitted that a senior LSG qualified PO & RMS Official was holding charge as APM (Accounts), Kattappana Head Office w.e.f. 7.5.97. The applicant had joined as Accountant, Thodupuzha HPO on 19.5.97 and continued there. They prayed that the O.A. may be dismissed with costs to the respondents.

5. Heard learned counsel for the parties.

6. We have given careful consideration to the submissions made by the learned counsel for the parties as well as the rival pleadings and perused the documents brought on record.

7. The main relief claimed by the applicant is regular promotion as APM (Accounts) with effect from 17.8.92. One of the grounds advanced by him for this relief is that he is continuing in that post for the last more than 4½ years. From 17.8.92 to 26.3.97 the date of filing of this O.A. more than 4½ years have passed. We do not consider that this can be a ground for his regular promotion with effect from 17.8.92 because on 17.8.92 he had no experience at all. Moreover, the respondents in the reply statement have stated that his designation is only shown as 'Accountant'.

8. The second ground advanced by the applicant is that the applicant was the only eligible candidate for the post of APM (Accounts) as per Rule 276-A P & T Manual Vol. IV. According to the respondents Rule 276-A of P & T Manual Vol. IV is obsolete and is no longer applicable in the matter of promotion of Post



Office and Railway Mail Service Accountants. Respondents relied on R-3(E) letter dated 16.3.88 and R3(F) letter dated 24.9.96 of Director General (Posts) for the purpose which state as under:

(a) Clarification 1 under letter dated 16.3.88:

Points of doubt

1. Whether the promotion to the next higher grade in case of PO & RMS Accountants will be effected from the date the official is due for promotion under the TBOP Scheme.

Clarifications

1. They will be promoted to the higher grade from the due date of promotion on completion of 16 years of service. If they have drawn spl. pay for 3 years it will be included for pay fixation. In such cases they will retain their seniority.

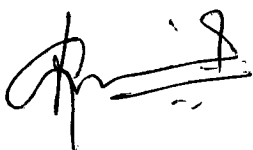
(b) Clarification under letter dated 24.9.96.

1. Whether LSG/TBOP Accountants are to be compared with LSG/TBOP General line officials or with that of LSG/TBOP Accountants for the purpose of deciding their immediate junior while implementing their promotion under BCR.

Under TBOP/BCR scheme, there is no distinction between General Line and Accounts line except for the limited purpose of functional necessity. Hence, promotion to TBOP/BCR scheme shall be implemented with reference to juniors in the now common Postal Assistant/LSG gradation lists.

It is evident from the above that with the introduction of TBOP/BCR schemes, Accounts as a separate line ceased to exist and promotion were to be made on the basis of a common gradation list and also promotion to the next higher grade in the case of PO & RMS Accountants is to be done from the due date of completion of 16 years of service.

9. According to the respondents, the post of APM (Accounts) Kattappana Head Post Office is an identified supervisory post and is to be filled up by LSG Accountant. With the introduction of TBOP scheme promotion to LSG is not made based on Rule 276(A) of P&T Manual, Vol. IV and that such posts are filled up by



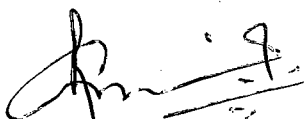
TBOP Accountants already available and since the applicant is not eligible for promotion under TBOP scheme he has no claim to be posted as APM (Accounts), Kattappana Head Post Office on regular basis. They had submitted that there were many senior officials in the divisional gradation list of Idukki Division awaiting promotion to the TBOP scheme for want of 16 years of service and the claim of the applicant for promotion by-passing all the seniors would not be permissible and the applicant is trying to steal a march over the seniors in the matter of promotion. We find considerable force in this argument. Respondents have supported their arguments by the Director General (Posts)'s clarification under R3(E), R3(F) and R3(I) dated 23.3.88, 24.9.96 and 6.3.85 respectively. The applicant had not denied these orders. The applicant has also not claimed that anyone junior to him has been promoted/posted as APM (Accounts) on regular basis. Moreover, the applicant having been appointed as Postal Assistant on 23.2.83 and having not averred anywhere in the O.A. that he had opted for the separate cadre of PO & RMS Accountant and not denying anything contained in the reply statement by filing rejoinder, we are of the considered view that he has no claim for out of turn regularisation as APM (Accounts) Kattappana Head Post Office. Moreover, in the additional reply statement, respondents have averred that with effect from 7.5.97 a senior LSG qualified PO & RMS official was holding charge of APM (Accounts), Kattappana Head Post Office and the applicant joined as Accountant, Thodupuzha Head Post Office on 19.5.97 and was continuing there.

10. In view of the foregoing, we hold that the applicant is not entitled for the reliefs sought for and the O.A. is liable

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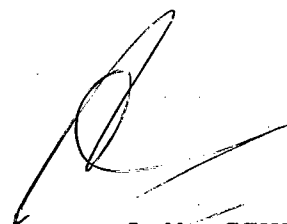
to be dismissed. Accordingly, we dismiss the O.A. with no order as to costs.

Dated the 12th January, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

kmn



A.M. SIVADAS
JUDICIAL MEMBER

List of Annexures referred in this order

- A1 True copy of the order No. B1/3/Dlg dated 4.8.92 issued by the 3rd respondent.
- A2 True copy of the relevant portion of the gradation list of postal officials on 1.7.93 issued by the 3rd respondent.
- A3 True copy of the memo No. B/585 dated 12.12.83 issued by 3rd respondent.
- A5 True copy of the representation dated 4.2.97 submitted by the applicant to the 4th respondent
- R3(B) True copy of the memo No. B1/3/ Dlg dated 1.8.90 of the 3rd respondent.
- R3(C) True copy of the letter No. 31-31/74-PE I dated 10.11.78 issued by the DG P&T New Delhi.
- R3(D) True copy of the letter No 9/6/79-SPB-II dated 23.5.79 issued by the DG P&T, New Delhi.
- R3(E) True copy of the letter No 43-15/84/PE-I dated 16.3.88 issued by the DG P & T, New Delhi.
- R3(F) True copy of the letter No. 44-60/96/SPB-II dsated 24.9.96 of the DG, P&T, New Delhi.
- R3(G) A photo copy of Rule 276(A) and 27(B) as contained in P & T Manual Vol. IV
- R3(H) A phot copy of the Rule 276(A) and 27(B) as contained in P & T Manual Vol.IV
- R3(I) A phot copy of the orders of the DG (P) No. 6-11/84-SPB.II datead 6.3.85