

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.472 of 1998.

Thursday, this the 18th day of January, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K. Govinda Kurup,
Postal Assistant,
Kaipattur,
Pathanamthitta Division,
Pathanamthitta. Applicant

(By Advocate Shri P.C. Chacko)

Vs.

1. The Director General of Posts,
Postal Department,
New Delhi.
2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.
3. The Superintendent of Post Office,
Pathanamthitta Division,
Pathanamthitta. Respondents

(By Advocate Shri Govindh K. Bharathan, SCGSC)

The application having been heard on 18.1.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant who was initially appointed as Postal Assistant w.e.f. 2.5.1978 became eligible for promotion under the Time Bound One Promotion Scheme (TBOP scheme for short) on completion of 16 years of service on 2.5.1994. The Departmental Promotion Committee (DPC for short) met for considering the applicant and several other juniors for promotion under TBOP for the LSG cadre on 10.8.1994. While the applicant's juniors were promoted pursuant to the

recommendation of the DPC, the applicant was not promoted. Aggrieved by non-promotion, the applicant submitted representation (A-5) to the 2nd respondent.. He was replied by A-4 order dated 14.2.95, that the DPC which met on 10.8.1994 declared the applicant unfit for promotion taking into account the disciplinary proceedings contemplated against the applicant in connection with double closure of Vallicode-Kottayam 5 years Time Deposit A/c No. 958020. Applicant took up the matter in appeal before the Director of Postal Services, Southern Region, Trivandrum. However, the Director of Postal Services by order dated 12.9.1996 (R-1) rejected the Appeal. Though a review was filed, the applicant was informed by order dated 8.8.97 (R-2) that there was no provision for review on the ground that he had already preferred an appeal. Therefore, the applicant has filed this application.

2. Though the applicant had made certain other prayers also, as the prayer to set aside A-7 order of transfer was not pressed and it has been deleted and the applicant restricted the claim in this application in respect the prayers regarding retrospective promotion to LSG cadre w.e.f. 2.5.94, the date on which he completed 16 years of service as Postal Assistant.

3. It is alleged in the application that as no charge sheet was served on the applicant on 10.8.94, the case of the

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respondents that the applicant was considered unfit by the DPC on account of contemplated disciplinary proceedings, is untenable.

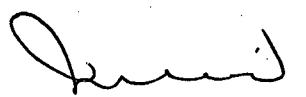
4. The applicant was eventually promoted on 30.4.98 till which date the penalty of withholding of increment was in force. The claim of the applicant for promotion as LSG under (TBOP) w.e.f. 2.5.94 is resisted on the ground that the charge sheet under Rule 16 of the CCS(CCA) Rules was signed by the competent authority on 9.8.1994 though the same was issued only on 11.8.1994.

5. We have heard the learned counsel on either side. The Apex Court in Union of India and others Vs. K.V. Jankiraman and others , (1994) 4 SCC 109, held that the commencement of the Disciplinary proceedings would be w.e.f. the date on which the charge sheet in the departmental disciplinary proceedings was served on the applicant and only with effect from that date, the sealed cover procedure can be adopted by the DPC. The contemplation of the departmental disciplinary proceedings which may not result in a penalty is not a ground for not considering an official for promotion and to decide whether the official is fit or unfit. The action on the part of the DPC to take into account the contemplated departmental disciplinary proceedings in which the charge was yet to be served on him to adjudge the applicant unfit for promotion was highly irregular and unjustified.

6. In the light of what is stated above, the application

is disposed of directing the respondents to have, the case of the applicant for promotion under TBOP, considered by a review DPC as on 10.8.94 without taking into account the charge sheet served on the applicant on 11.8.1994 on the contemplated disciplinary proceedings and to promote the applicant under TBOP as LSG Postal Assistant with effect from the due date if he is not otherwise found ineligible or unsuitable for promotion with all consequential benefits. The above direction shall be complied with within two months from the date of receipt of a copy of this order. No costs.

Dated the 18th January, 2001



(T.N.T. NAYAR)
MEMBER (A)



(A.V. HARIDASAN)
VICE CHAIRMAN

rv.

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

- A-4: True copy of the letter No.BB/TBOP dated 14.2.95 issued by the 3rd respondent.
- A-5: True copy of the representation dated 7.7.97 submitted by the applicant to the 2nd respondent.
- A-7: True copy of the relevant portion of the transfer order No.B/20/ROT-TFR/98 dated 18.3.98 issued by the 3rd respondent.
- R-1: True copy of proceeding No.ST/MP-3/96 dated 12.9.96 initiated by the Director of Postal Services, O/o CPMG, Trivandrum.
- R-2: True copy of proceeding No.B/G-13 dated 6.8.97.