

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 50/97

Wednesday, this the 11th day of August, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR JL NEGI, ADMINISTRATIVE MEMBER

K.S. Viswanathan,
S/o. K. Sankara Pillai,
Deputy Superintendent of Post Offices,
North Presidency Division, Barakpur,
West Bengal, residing at Parvathy
Nivas, Pallikkara.

...Applicant

By Advocate Mr. M.R. Rajendran Nair

Vs.

1. Director General of Posts,
Department of Posts,
New Delhi.
2. Chief Post Master General,
Department of Posts,
Kerala Circle,
Thiruvananthapuram.
3. Senior Superintendent of Post Office,
North Presidency Division,
Barakpur, West Bengal.

...Respondents

By Advocate Mr. Govindh K. Bharathan, SCGSC (rep)

The application having been heard on 11.8.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to declare that he is entitled to
be promoted to Higher Selection Grade-I and get his pay fixed
accordingly and further promotion to Group 'B' and to direct
the respondents to promote him to Higher Selection Grade-I,
fix his pay and then again fix his pay on promotion to Group 'B'.

2. The grievance of the applicant is that promotion to
Higher Selection Grade which was due to him but which could

not be granted to him on account of the penalty imposed on him was not granted to him on expiry of the period of currency of penalty. As a result, he lost a chance to get fixation of pay which would have put him in a better place on his subsequent promotion to Group 'B'. While he was working as Assistant Superintendent of Post Offices, Thiruvalla, proceedings were initiated against him under Rule 14 of Central Civil Services (Classification, Control & Appeal) Rules, 1965. He was found guilty by the disciplinary authority and penalty of reduction pay one stage from Rs.2,300/- to Rs.2,240/- in the time scale of pay of Rs.1640-2900 for a period of one year with effect from 6.3.95 was awarded as per A-1. As per A-2, the appellate order, the penalty was modified as withholding of next increment for a period of three months from the date it becomes due. As per A-5, the applicant was promoted to Group 'B' on regular basis. He submitted a revision petition to the Director General (Posts) against the order of the Appellate Authority. The Revisional Authority did not agree with the Appellate Authority and setting aside the order of the Appellate Authority, restored the order of the disciplinary authority. He was relieved on 19.4.96 with a direction to join as Senior Post Master, Burdean Head Office. On 17.5.96, the charge of Deputy Superintendent of Post Offices, Barakpore had been made over to him.

3. Respondents contend that the original punishment was to take effect from 6.3.95 and therefore, it remained current upto 6.3.96. In the Departmental Promotion Committee held on 12.8.94 to consider the fitness of promotion of Assistant Superintendents of Post Offices to the cadre of Higher Selection Grade-I, the applicant was also considered but he was not found fit for promotion at that time as Rule 14 enquiry

was pending against him. The punishment awarded to the applicant on conclusion of the disciplinary proceedings and on consideration of the appeal preferred by him which resulted in his promotion to Postal Service Group 'B' cadre from Assistant Superintendent of Post Offices cadre direct, after 30.4.96.

4. It is the case of the respondents that Departmental Promotion Committee held on 12.8.94 considered the fitness of promotion of the applicant to the cadre of Higher Selection Grade-I but he was not found fit for promotion due to Rule 14 enquiry pending against him. If Rule 14 enquiry was pending against him, "sealed cover" procedure should have been followed.

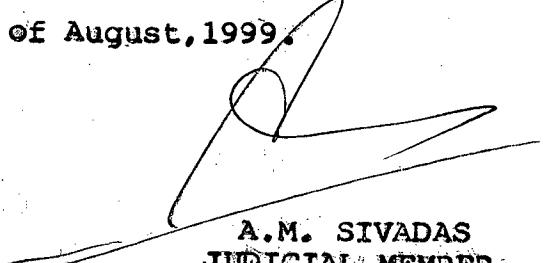
5. Now the position is that, since the Revisional Authority did set aside the order of the Appellate Authority and restored the order of the disciplinary authority, the punishment awarded to the applicant came to an end by 6.3.96. It is also the admitted case of the respondents that the punishment awarded to the applicant by the disciplinary authority remained current only upto 6.3.96. The applicant was promoted directly from his earlier post to Postal Service Group 'B' in November 1995. Because of the action of the respondents, the applicant could not work in Higher Selection Grade-I. So, from the post of Assistant Superintendent of Post Offices, without being promoted to Higher Selection Grade-I, he was promoted to the next higher post of Group 'B' Postal Service. As a result of it, the applicant says that he has faced monetary loss because he could not get fixation of his pay in Higher Selection Grade-I. Since the applicant has been promoted to Group 'B' Postal Service, there cannot be any doubt that he was very well fit to be promoted to

Higher Selection Grade-I. He was not promoted to Higher Selection Grade-I due to the disciplinary proceedings in 1994. When the punishment imposed by the disciplinary authority was over by 6.3.96, in the normal course, in the said circumstance, he should have been promoted to Higher Selection Grade-I. That was not done in this case only because of the order of the Appellate Authority. The Appellate Authority's order has been set aside by the Revisional Authority. The learned counsel for the applicant submitted that the respondents ought to have promoted the applicant to Higher Selection Grade-I with effect from 6.3.96. There is no point in saying that the applicant was not promoted and was not entitled to promotion from 6.3.96 on the ground of the order of the Appellate Authority awarding punishment to him. That being the position, the applicant is entitled to promotion to Higher Selection Grade-I with effect from 6.3.96. Admittedly, that has not been granted to the applicant. We find no reason for non-granting of promotion to the applicant to Higher Selection Grade-I with effect from 6.3.96. Since the Department has found him fit for a higher post, there cannot be any reason to find him not fit for a lower post.

6. Accordingly, the application is allowed declaring that the applicant is entitled to be promoted to Higher Selection Grade-I with effect from 6.3.96 and get his pay fixed accordingly and further promotion to Group 'B' and directing the respondents to promote him to Higher Selection Grade-I with effect from 6.3.96 with consequential benefits. No costs.

Dated this the 11th day of August, 1999.


J.L. NEGI
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-1:

True copy of the Order No. INV/5-9/92(2) dated 23.2.95 issued by the Director of Postal Services (HQ), office of the 2nd respondent to the applicant.

2. Annexure A-2:

True copy of the Order No. ST/B-11/95 dated 25.8.95 issued by the 2nd respondent to the applicant.

3. Annexure A-5:

True copy of the relevant portion of Letter No. 9-29/95-SPQ dated 3.11.95 issued by the Assistant Director (S&V), office of the 2nd respondent along with forwarding Letter No. ST/1/1/95 dated 16.11.95 issued by the Assistant Director (S&V), office of the 2nd respondent.