

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.360/2002

Dated Monday this the 23rd day of June, 2003.

C O R A M

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

Sundareswarn Nair.N.  
S/o Late Narayana Pillai  
Working as Sub Postmaster (B.C.R)  
Pettah Sub Office  
Thiruvananthapuram

Applicant

(By advocate Mr.O.V.Radhakrishnan)

Versus

1. The Senior Superintendent of Post Offices  
Thiruvananthapuram North Postal Division  
Thiruvananthapuram.
2. Director of Postal Services (H.Q.)  
Office of the Chief Postmaster General  
Thiruvananthapuram.
3. Chief Postmaster General  
Kerala Circle,  
Thiruvananthapuram.
4. Director General of Posts  
New Delhi.
5. Union of India represented by  
its Secretary  
Ministry of Communications  
New Delhi.

Respondents.

(By advocate Mr. P.Vijayakumar, ACGSC)

The application having been heard on 23rd June, 2003, 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 is working as Sub Postmaster, Pettah Sub Office, Thiruvananthapuram, is aggrieved by A-9 order dated 11.12.2001 because while 33 of his juniors were promoted to HSG-I, he was not promoted. He has, therefore, filed this application seeking to set aside A-9 to the extent it excludes his name from the list of officials approved for promotion to the cadre of HSG-I (General Line) in post offices against the posts

upgraded to HSG-I as per memo dated 2.11.2001 and posts lying vacant at Tiruvalla, Pathanamthitta and Idukki Divisions and to declare that he is eligible and entitled to be promoted to the cadre of HSG-, notwithstanding the imposition of a minor penalty on him as per A-5, which does not constitute a bar for promotion and the circumstances which led to the imposition of the penalty do not render him unsuitable or unfit for promotion to the cadre of HSG-I and his non-inclusion in the list of officials approved for promotion to the cadre of HSG-I (General Line) in post offices against the posts upgraded to HSG-I as per memo No.Est/1/3/2001/II dated 2.11.2001 and all consequential benefits on the basis of a review DPC.

2. The respondents in their reply statement contend that the applicant was awarded a penalty, by A-5 order, of recovery of loss suffered by the Government on account of a burglary and that the non-promotion of the applicant was not solely based on A-5 order but also on the overall assessment by the DPC which did not give him the required bench mark of "Good".

3. The applicant has filed a rejoinder in which it is stated that the order of penalty has since been set aside by A-16 order of the Chief Postmaster General and that the case of the applicant for promotion ought to be reviewed by a review DPC.

4. Having heard the learned counsel for the applicant and having perused the pleadings and all the relevant material on record, we find that one of the reasons which may have influenced the DPC was the adverse entry in the applicant's ACR on the basis of the penalty imposed as per A-5 order. Now that the A-5 order



has been set aside as per A-16 order, as has been observed by the Apex Court in Amar Kant Choudhary Vs. State of Bihar 1984 (1) SCC 694, a review DPC will have to consider the case of the applicant for placement in HSG-I against the upgraded post with effect from the date date, without taking into account the penalty imposed on him by A-5 and the consequential adverse entry.

5. In the light of what is stated, we dispose of this application directing the respondents to have the case of the applicant for promotion to HSG-I on par with his junior, with effect from 11.12.01 against one of the posts of HSG-I upgraded vide memo No.Est/1/3/200/II dated 2.11.2001, without taking into account the penalty by A-5 and the resultant adverse entry in his ACR, as on 28.11.01 and if the applicant is adjudged fit for promotion, to promote him to HSG-I with effect from the due date and make available all consequential benefits arising therefrom, within three months from the date of receipt of a copy of this order. No order as to costs.

Dated 23rd June 2003.



T.N.T.NAYAR  
ADMINISTRATIVE MEMBER



A.V.HARIDASAN  
VICE CHAIRMAN

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