

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : H

AT HYDERABAD

ORIGINAL APPLICATION NO. 100/91

DATE OF JUDGEMENT

3rd JUL

1992

BETWEEN

Sri K.Chakrapani

:Applicant

A N D

1. The Secretary to Govt.,
Department of Posts,
New Delhi
2. The Sr. Superintendent of
Post Offices, Hyderabad
City Division,
Hyderabad
3. The Senior Post Master,
Khairatabad, Hyderabad

:Respondents

Counsel for the applicant

:: Sri KS R Anjaneyulu.

Counsel for the Respondents

:: Sri N.Bhaskara Rao, Addl.
CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY HON'BLE
SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDICIAL)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, to direct the respondents to continue the applicant as Sorting Postman, Khairatabad with all consequential benefits and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief, are stated as follows:

1. The applicant was initially appointed as Postman. He was subsequently promoted and posted as Sorting Postman at Khairatabad, as per the letter dated 22.3.90 of Senior Superintendent of Post Offices, Hyderabad City Division.

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He was transferred and posted as Sorting Postman at Himayat Nagar as per Senior Superintendent of Post Offices letter dated 2.5.90. The applicant was again posted back as Sorting Postman, Khairatabad, as per Senior Superintendent of Post Offices, Hyderabad City Division, Hyderabad letter dated 3.10.90. While so, the applicant was reverted back as Postman with effect from 7.1.1990 as per the letter dated 7.1.1991 of the Senior Post Master, Khairatabad. It is the case of the applicant, that, he was promoted and posted as Sorting Postman against regular vacancy and that, his promotion was not on adhoc basis and so, the reversion of the applicant from the post of Sorting Postman to the post of Postman is arbitrary and unsustainable. According to the applicant, he believes and understands the same to be true that, he had been reverted due to some adverse entries against him which were not communicated to him at all. So, according to the applicant, the action of the respondents in reverting him from the post of Sorting Postman to the post of Postman is against the principles of natural justice. Hence, the present OA is filed by the applicant for the relief as already indicated above.

3. Counter is filed by the respondents opposing the OA.

4. In the counter filed by the respondents, it is maintained that, during March, 1990, that the applicant had represented to the respondents for giving him posting as Sorting Postman in the vacancy then available, expressing the applicant's inability to work as Postman due to the fracture on his leg in an accident that occurred on 29.9.1989 and that, the request of the applicant was considered on humanitarian grounds and was posted on adhoc basis on promotion at Khairatabad, as Sorting Postman.

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It is also further maintained in the counter of the respondents, that the case for promotion of officials under the TBOP scheme, those, who had completed 16 years of service as Postman could not be taken up from 1.4.89 to 31.3.90 as the Departmental Promotion Committee was not convened in the year 1989. It is further pleaded in the counter of the respondents as per the Directorate's order communicated in para 15 of Chief Post-Master General's letter dated 20.12.1983 and letters dated 3.2.87 and 12.3.87, the post of Sorting Postman which carries special allowance has to be filled in accordance with the seniority from amongst the selection grade postman and that, the Departmental Promotion Committee(DPC) that met on 13.10.1990 considered the applicant and others for promotion under TBOP scheme to the post of selection grade Postman and the applicant was not found eligible for selection grade postman and so, he was not posted on regular basis as Sorting Postman.

5. In view of the contention raised on behalf of the applicant, that the applicant had not been considered for promotion on the basis of certain adverse entries, we thought it fit to send for the DPC proceedings dated 13.10.1990. The DPC proceedings dated 13.10.1990 were produced before us on 30.6.92 during the course of hearing of this OA. During the course of hearing this OA, it was brought to our notice that the post of sorting postman has got to be filled up only from those persons who are selected on the basis of merit-cum-seniority basis as selection grade postman. A perusal of the DPC proceedings would go to show that the applicant herein had been punished as per the letter dated 23.8.85 for his unauthorised absence from duty, and his increment due on 1.1.1985 had been withheld for one year with effect from 1.1.1985 and the increment had been released on 1.1.1986.

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The same DPC proceedings would also go to show that the increment of the applicant had been postponed for three months as a measure of punishment for his unauthorised absence as per order dated 20.8.1988 and the increment had been released on 7.12.88. The fact that the applicant had been punished ~~twice~~, once in the year 1985 and again in the year 1988 and his increments had been withheld as indicated above is not in dispute. So, the DPC had taken into consideration the said punishments that had been inflicted on him and had not found him fit for promotion for the selection grade Postman which post is filled up on the basis of merit-cum-seniority. No bias or malafides can be attributed to the respondents for non-selection of the applicant to the said post. The Supreme Court in the case of State Bank of India Vs Mohd. Mynuddin AIR 1987 SC 1889 ^{that,} had observed the direction to promote an officer, cannot ordinarily be issued straightaway unless the process of selection is vitiated on the ground of bias and malafides. In the present case, there is absolutely nothing to infer that the respondents had acted either with bias or malafides in not selecting the applicant to the said promotion post. As has been laid down in State of Mysore Vs C.R. Seshadri, AIR 1974 SC 460, the evolution of the abilities of an officer for promotion should be left to be done by professional Committees like DPCs. The discretion of the Administrative ~~authorities~~ in such matters cannot be interfered with by the Tribunal unless the DPC had acted contrary to the rules, regulations or with malafides which malafides of the DPC are to be pleaded and established. Absolutely, no violation of any rule or regulation ~~is~~ as having been made by the DPC in the matter of the said selection is brought to our notice. So, that being the position, it is not open for us to interfere with the said selection, in which the applicant was found to be not fit for promotion.

6. The fact that the applicant had been promoted on adhoc basis as Sorting Postman cannot be doubted in view of the facts and circumstances of this case. As a matter of fact, the rules and regulations do not permit for filling up the post of sorting Postman except in accordance with the Directorate's orders referred to above. So, it is not open for the applicant to take advantage of his promotion on adhoc basis that had been made purely on compassionate grounds and contend that he is promoted on regular basis from the post of Postman to the post of Sorting Postman. So, we see no merits in this OA and hence, this OA is liable to be dismissed.

7. The OA is accordingly dismissed, leaving the parties to bear their own costs.

T. Chandrasekhar Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 3rd July, 1992

sk/mvl

8/7/92
Deputy Registrar (Judl.)

Contd:....6/-

PSJ

Copy to:-

1. The Secretary to Govt., Department of Posts, New Delhi.
2. The Senior Superintendent of Post Offices, Hyderabad City Division, Hyderabad.
3. The Senior Post Master, Khairatabad, Hyderabad.
4. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. Copy to reporters as per standard list of CAT, Hyd.
7. One copy to Hon'ble Mr. T.Chandra Sekhar Reddy, Judicial Member, CAT, Hyd-bad.
8. One spare copy.

Rsm/-

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