

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A. No. 285 of 1992.

BETWEEN:

A. Eshwaraiiah S/o A. Nagaiah,
aged about 46 years, Occ: LSG/PA, (officiating DPM)
Jagtial Head Office, Dist. Karimnagar.

.. APPLICANT.

A N D

1. The Post Master General, Hyderabad Region,
Hyderabad.
2. The Superintendent of Post Offices,
Karimnagar Division, Karimnagar.

.. RESPONDENTS.

DETAILS OF THE APPLICATION:

Address for service of summons
and process:

Sanka Ramakrishna Rao,
Advocate, 1-10-29,
Ashoknagar, Hyderabad-20.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION
IS MADE:

"This application is against the impugned
order No.B1-10/4, dated 7-1-1992 of the
Superintendent of Post Offices,
Karimnagar Division, Karimnagar".

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of
the order against which he wants redressal is within the
jurisdiction of the Tribunal u/s.14(1)(b)(ii) of the
Administrative Tribunals Act, 1985.

3. LIMITATION:

The applicant further declares that the application
is within the limitation period prescribed in Section 21(1)
(a) of the Administrative Tribunals Act, 1985.

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A. Eshwaraiiah

4. FACTS OF THE CASE:

The applicant is working as LSG/PA and presently officiating as Deputy Post Master, Jagtial H.O. He has rendered more than 26 years of unblemished/^{record}of service and was due for Second Time Bound Promotion with effect from 1-10-1991 after completion of 26 years of service, as per the instructions contained in the Director General, Dept. of Posts, New Delhi letter No.22-1/89-PE I, dated 11-10-1991 (Ann.No. IV Page No. (4)).

2. The Superintendent of Post Offices, Karimnagar Division, Karimnagar vide Memo No.B1-10/4, dated 7-1-1992 (Ann.No. I, Page No. 8) had issued proceedings as per the Post Master General, Hyderabad Region, Hyderabad Memo No.ST/5-3-BCR/91-92, LSG/ dated 31-12-1991, promoting the officials of/Postal Assistants Cadre to the Next Higher Scale of pay of Rs.1600-2660 in H.S.G.-II Cadre with effect from 1-10-1991. The applicant was not given the due promotion along with others even though he is senior to those officials promoted from Sl.Nos.13 to 17 of the promotion list (Ann.No. I Page. No. 8). The reasons for ignoring the applicant was not communicated.

3. It is respectfully submitted that as on the date the promotion was due i.e., 1-10-1991 there was no punishment either contemplated or pending and there was no currency of any punishment. There are also no adverse remarks neither ^{against} passed/the applicant nor communicated any remarks as such.

4. It is submitted that as per guidelines issued in Director General, Department of Posts, New Delhi rulings letter No.22-1/89-PE I, dated 11-10-1991, the applicant is eligible for Second Time Bound Promotion on completion of

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W. S. Shwari

26 years of service. But he was denied the promotion which was due with effect from 1-10-1991. The 2nd Respondent vide his Memo cited supra, promoted junior officials to H.S.G.-II Cadre ignoring the seniority of the applicant for the said promotion. Aggrieved against the impugned order, the applicant represented to Post Master General, Hyderabad Region, Hyderabad (1st Respondent) on 13-1-1992 (Ann.No. III Page.No. 13) requesting him to promote the applicant to the cadre of HSG-II w.e.f. 1-10-1991, and there is no response so far.

Hence this application before the Hon'ble Tribunal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS: ~~XX~~

In terms of Director General, Department of Posts, New Delhi letter No.22-1/89-PE I, dated 11-10-1991 (Ann.No. IV Page No. 14), it is communicated that those officials who have completed 26 years of service are eligible for promotion under Second Time Bound Promotion scheme to the cadre of H.S.G. - II in the scale of Rs.1600-2660/- with effect from 1-10-1991. This promotion is to be effected on seniority-cum-merit basis. The applicant had completed 26 years of service as on the date of promotion to be implemented and he is very much covered under the above scheme. He has unblemished record of service for the last 26 years and no disciplinary proceedings were either contemplated or pending against him on the date of his promotion was due. The applicant was promoted to Ist Time Bound Promotion on 30-11-1983 and was placed at Sl.No.22 of the Divisional Gradation List of Class-III officials as on 1-7-1986. Even though he is eligible for Second Time Bound Promotion after completion of 26 years of service and happened to be senior to those officials promoted from Sl.No.13 to 17 of the promotion list, (Ann.No. I Page No. 8)

K. Reddy

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he has not been given the Second Time Bound Promotion and no reasons assigned for over-looking his promotion.

Contrarily the juniors to the applicant were promoted, denying the applicant a reasonable opportunity under Article 16 of the Constitution.

2. It is further submitted that the officials at Sl.No. 13 to 17 of the promotion list were juniors to the applicant and were promoted, while the applicant was ignored inspite of his eligibility for promotion for Second Time Bound Promotion scheme. By virtue of promotion to H.S.G.-II, the juniors would be supervising the applicant in his duties causing humiliation and embarassment to the applicant.

3. It is further submitted that ~~there~~ there are plethora of judgements over subject, which amply reiterate that, promotion to the eligible candidates cannot be denied depriving them of reasonable opportunity under Article 16 of Constitution of India. It is held that the appropriate authority is bound to take the claims of all persons entitled to promotion in-to consideration. Non-consideration of claim of an employee other-wise qualified for, vitiates the exercise of jurisdiction in the matter and subjects the action to the scrutiny of a court (Anil Chandra Vs/ State of Orissa, AIR 1970 Orissa 19).

It was further held that if there are rules for any class, that class must be governed by these rules, and the recruitments, promotions, seniority etc., must be in accordance with those rules (Lehana Singh Vs. Punjab State 1970 SLR 344; AIR 1971 Punjab 198). It is submitted that by denying the promotion to the applicant and promoting his juniors, the applicant is deprived of benefits of officiating chances in leave vacancies, officiating allowances, deputation allowances if deputed etc., apart from loosing his seniority which has its repurcussions throughout the career.

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Keshwari

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Therefore, the applicant prays that the Hon'ble Tribunal may be pleased to direct the Respondents to consider the applicant by promoting him from the date, his juniors were promoted in order to avoid humility he would face of working under the juniors, for no fault of the applicant and be pleased to interfere in the interest of justice.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

Aggrieved against the promotion order of the 1st Respondent, the applicant represented to the Post Master General, Hyd. Region., Hyderabad on 13-1-1992 requesting him to promote the applicant for which there is no response.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that he had not previously filed any application writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application Writ Petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT:

In view of the facts mentioned in para 4 above the applicant prays for the following relief(s).

It is prayed that the Hon'ble Tribunal may be pleased to direct the Respondents to consider the applicant for promotion of Second Time Bound Promotion to the cadre of H.S.G.-II from the date, his juniors were promoted with all the consequential benefits and pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

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9. INTERIM ORDERS IF ANY PRAYED FOR:

Pending final decision on the application, the applicant seeks the following interim relief:

- N O N E -

10. NOT APPLICABLE:

11. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

P.O./D.D. No. 8 03 185242

Date: 30-3-1992

Fee: Rs.50/-

Name of the Office Issued: Musheerabad Post Office

Name of the Office Payable at: G.P.O., Hyderabad.

12. LIST OF ENCLOSURES:

Rs.50/-
P.O./D.D./Removed

Sl. No.	Details of the Documents:	Annexure No.
1.	Memo No.B1-10/4, dated 7-1-1992 of the Superintendent of Post Offices, Karimnagar Division, Karimnagar.	I
2.	Divisional Gradation List of Class-III officials as on 1-7-1986 of the 2nd Respondent in which the applicant was shown at Sl.No.22.	II
3.	Representation of the applicant dated 13-1-1992 to the Post Master General, Hyderabad Region, Hyderabad requesting him to consider the applicant for promotion to the cadre of HSG-II with effect from 1-10-1991.	III
4.	Copy of DG, Posts, New Delhi rulings letter No.22-1/89-PE I, dated 11-10-1991 regarding Second Time Bound Promotion.	IV

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V E R I F I C A T I O N

I, A. Eshwaraiah S/o Sri A. Nagaiiah, aged about 46 years, working as LSG/PA (officiating Deputy Postmaster) in the office of Jagtial Head Office, Karimnagar District, do hereby verify that contents of paras 1 to 4 and 6 to 12 are true to my personal knowledge and para 5 believed to be true on legal advice and that I have not suppressed any material fact.

Date: 30-3-1992

Place: Hyderabad

A. Eshwaraiah
SIGNATURE OF THE APPLICANT

[Signature]
COUNSEL FOR THE APPLICANT.