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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD.

* * *

D.A. 379/92

Dt. of Decision : 2.12.93

C.J. Prabhakar Rao

. . Applicant.

Vs

1. The Senior Superintendent of
Post Offices,
Hyderabad South East Division,
Kachiguda, Hyderabad.
 2. The Director of Postal Services,
Hyderabad City Region,
Hyderabad.
- . . Respondents.

Counsel for the Applicant : Mr.S.Ramakrishna Rao

Counsel for the Respondents: Mr.N.V.Raghava Reddy

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

0 As per Shri V. Neeladri Rao, Vice-Chairman I

OA 379/92

Judgement dated 2-12-93

Heard Shri S. Ramakrishna Rao, learned counsel for the applicant and also Shri N.V. Raghava Reddy, learned standing counsel for the respondents.

The applicant joined service as Postal Assistant on 12-6-69. As per Time Bound One Promotion scheme, all the employees in Gr.'C' in the Postal Department are entitled to one promotion on completion of 16 years of service, if he is found suitable. The applicant who is in Group 'C' was entitled to Time Bound One promotion as on 12-06-85.

Charge memo. dated 24-08-85 was issued to the applicant. The D.P.C. which met for consideration in regard to suitability of the employees in Gr.'C' for Time Bound promotion did not consider the case of the applicant in view of the pendency of the disciplinary proceedings in pursuance of the charge memo. dated 24-08-85. The disciplinary authority ordered removal of the applicant from service by way of punishment. The appeal thereon was dismissed. When the same was challenged in OA No. 264/87, the same was allowed on the ground that the report of the enquiry officer was not furnished to the applicant before the order of punishment was passed. The disciplinary authority was directed to supply a copy of the Inquiry report to the applicant

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and finalise action if necessary after considering the representation of the applicant in regard to Inquiry report. After consideration of the same, the disciplinary authority passed the order dated 23-10-90 by imposing penalty of reduction in the Time scale by 10 stages for a period of 3 years. The appeal thereon was dismissed on 3-4-91. The same was confirmed by the Directorate by order dated 26-6-92, and this has become final.

This OA was filed on 29-4-92 praying for a direction to the respondents to consider the applicant for promotion to the Time Bound One promotion from the date on which it was due by constituting the D.P.C. with all consequential benefits.

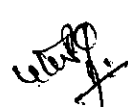
Even when the D.P.C. considered the cases of the Gr.'C' employees for suitability after the date/dates on which the Time Bound promotion was due, the promotion has to be given with effect from the date on which the Gr.'C' employee completed 16 years of service and it is not a case where such promotion has to be given from the date on which the D.P.C. finalised in regard to suitability or from the date on which the employee receives order of promotion. But if it is not a case of Time Bound promotion, an employee gets the benefit of promotion from the date on which he joins in the promotional post in pursuance of the order of promotion to be given to the employee by the D.P.C. unless retrospective effect is given in regard to the promotion.

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As such, the D.P.C. which is to consider the case of the Gr.'C' employee in regard to Time Bound one promotion or Time Bound 2nd promotion has to peruse the record of the concerned employee upto the date the Time Bound one promotion or 2nd promotion was due and it should not take into consideration the record subsequent to that date. It means that such D.P.C. has to consider the record of the concerned employee as on the ^{one} date ~~the~~ Time Bound/promotion or 2nd promotion was due without being influenced by the record of the employee subsequent to that date. But Shri N.V. Raghava Reddy, learned standing counsel for the respondents relied upon the order dated 14-11-85 to contend that if the charge memo. was issued by the date the D.P.C. considers the case of the employee or by the date of order of promotion, the employee cannot be promoted. But as the Time Bound One promotion was due to the applicant even on 12-6-85 i.e. long prior to the said memo., the same cannot be held as applicable for consideration of the case of the applicant for time bound one promotion.

So, the respondents have to be directed to convene a review D.P.C. to consider the case of the applicant for Time Bound one promotion in view of the observations in this order and if he is found suitable on the basis of the record available by 12-6-85, he has to be given promotion with effect from that date i.e. 12-6-85. The punishment of reduction by 10 stages has to be implemented in the promotion scale, in case he was found suitable for Time Bound one promotion as L.S.G. But if there is no possibility of



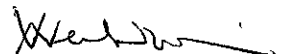
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reducing the pay by 10 stages in the scale applicable to promotional post, the applicant has to be given the minimum of that scale for the 3 years of the punishment.

The arrears on that basis have to be paid within one month from the date the D.P.C. finalises, if the applicant is found suitable for Time Bound one promotion. The D.P.C. has to be convened for this purpose within 2 months from the date of receipt of this order by Respondent 1. The OA is ordered accordingly with no costs.



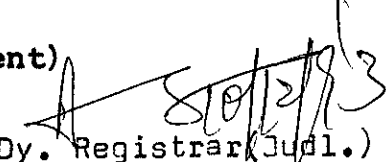
(R. RANGA RAJAN)
Member (Admn.)



(V. NEELADRI RAO)
Vice-Chairman

(Open court judgement)

NS


Dy. Registrar (Judl.)

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1. The Senior Superintendent of Post Offices, Hyderabad South East Division, Kachiguda, Hyd.
2. The Director of Postal Services, Hyderabad City Region Hyderabad.
3. One copy to Sri. S. Ramakrishna Rao, advocate, CAT, Hyd.
4. One copy to Sri. N.V. Raghava Reddy, Addl. CGSC, CAT, Hyd.
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