

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
HYDERABAD.

O.A. No. 1325/93.

Between :

R. Chandra Reddy.

...
and

Applicant.

Postmaster-General,
Hyderabad Region,
Hyderabad and two others.

...

Respondents.

COUNTER AFFIDAVIT

I, V.S. Krishna Murthy, S/o Satyam, aged about 54 yrs
Occupation : Asst. Director, O/o the Postmaster-General, Hyd.
Region, do hereby solemnly and sincerely affirm and state as
follows :

1. I am the Asst. Director, O/o the Postmaster-General, Hyd. Region, as such am well acquainted with the facts of the case, I am authorised to give this affidavit on behalf of other respondents also.
2. I have read the OA filed by the above named applicant, and I deny the several material allegations made therein except those that are specifically admitted herein.
3. Before traversing in detail the several material allegations, averments and contentions made therein, I beg to submit as follows :
4. It is submitted that Sri R. Chandra Reddy, PA, Medak HO, the applicant herein was appointed as PA, w.e.f. 17.5.76, and he completed 16 yrs of service as on 17.5.92. His case for promotion under one time bound promotion (TBOP) was examined by the DPC held on 26.5.92, but the DPC did not clear his promotion to the next higher cadre. (TBOP) as the applicant did not have satisfactory record of service for the last 5 yrs. He was awarded the following punishments :


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- (i) A penalty of reduction of pay by one stage from Rs.1270/- to Rs.1240/- was awarded w.e.f. 30.7.88 vide Memo. No.Genl/86, dt.30.7.88 as a result of Rule-14 inquiry in connection with non-remittance of cash to BO and fraudulent payments.
- (ii) A penalty of censure is awarded vide Memo. No. L/Misc/Chegunta/86, dt.30.7.88 for reusing the used postage stamps in case of RL.
- (iii) A penalty of withholding of one increment w.e.f. 1.5.91 without cumulative effect is awarded vide Memo.No. F6/89-90, dt.25.10.89 for non accounting of Rs.5,000/-
- (iv) A censure was awarded vide Memo. No.CR/ECB/PDP/91-92, dt.3.8.92 in connection with excess cash balance Memos on furnishing fictitious liabilities and excess retention of cash. Next DPC which met on 14.6.93 also did not clear the TBOP promotion of the applicant as he did not possess satisfactory record of service for the past 5 yrs. The applicant filed this DA and prayed to constitute review DPC and instruct to consider the applicant for the TBOP promotion.
5. In reply to paras 1, 2 & 3 : Needs no comments.
6. In reply to para-4(i), it is submitted that the applicant was appointed as PA on 17.5.76 and he was due for his TBOP promotion as on 17.5.92 in normal course after completion of 16 yrs of satisfactory service.
7. In reply to para-4(ii) & (iii), it is submitted that the averments of the applicant are misleading. It is not an automatic promotion and one should have satisfactory service. The official, who completed 16 yrs of service will be placed on the approved list and promoted to next higher scale of pay


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immediately on completion of 16 yrs of service subject to their being found fit and subject to normal rules relating to promotion vide DG P&T Lr.No.31-26/83-PE.I, dt.16.12.83. The ruling mentioned by the applicant vide OM No.22011/6/75-Est(D), dt. 30.12.76 was modified vide DG P&T New Delhi OM No.22011/5/86-Est(D), dt.10.4.89 and as per this ruling, though this promotion comes under non-selection method, the officials, who are found fit by DPC should only be placed in the panel for promotion (as per para-7). The DPCs held on 26.5.92 and 14.6.93 did not clear his promotion due to unsatisfactory service for the past 5 yrs.

8. In reply to para-4(iv), it is submitted that charge-sheet under Rule-16 was issued on 12.5.92, but not as per any pre-plan as alleged by the applicant. The explanation of the applicant was called for on 24.3.92 on review of ECB Memos and a reply was received from him on 27.3.92. There after the matter entrusted to the SDI(P), Medak West for enquiry on 1.4.92 and on receipt of enquiry report, a charge sheet issued on 12.5.92. This had happened as a routine, but not with any intention before the DPC is constituted, which met on 26.5.92 and the attributions are baseless. The applicant submitted his representation _____ dt. 17.12.92 to the first respondent and his representation was considered and it was disposed of on 27.12.92 by the first respondent stating that his case of promotion would be examined by next DPC and this was communicated by the third respondent on 7.1.93. The representation of the applicant, dt. 22.6.93 was disposed by the second respondent in the month of July, 93 communicating that the case of the applicant was not considered by the DPC due to unsatisfactory service for the past 5 yrs. Similarly the representations of the applicant dt. 23.7.93 to the first respondent was examined and he was replied that PMG, Hyd. Region


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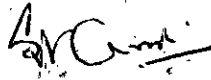

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has not conceded his request. The same was intimated to the applicant by third respondent on 13.8.93.

9. In reply to para-5(i) : As already discussed above, the ruling dt.30.12.76 was modified by OM No.22011/5/86-Est(D), dt.10.4.89, according to which though the promotion under TBOP comes under non-selection method, the official categories as fit by DPC should only be placed in the pannel for promotion. The procedure for examination of five proceeding yrs service is laid down in DG Posts Lr. No.6-2/90-SPB.II, dt.30.1.90 and when DPC did not find satisfactory service, for the past 5 yrs, it did not clear the promotion on 26.5.92 and 14.6.93. The question of expiry of punishment by 17.5.92 has nothing to do with recommendation of DPC.

10. In reply to para-5(ii) & (iii) : It is submitted that the DPC was constituted according to the rules and there is no bar that the divisional Supdt. who awarded punishment should not preside over the DPC. The DPC which met on 26.5.92 and 14.6.93 examined his past service of 5 yrs, and found the same as unsatisfactory and recorded the same in the minutes of DPC. As such the procedure of following sealed cover process did not arise. The DPC has to be constituted as per the modified rule dt.10.4.89 and the applicant is repeatedly relying on the old procedure as laid down in DG Rule dt.30.12.76.

11. In reply to para - 5(iv) : It is submitted that the second respondent has examined the case of the applicant and suitably replied the applicant that his case would be considered by next DPC. But the applicant contends that the second respondent should have ordered to conduct a review DPC. *But it was not considered for to hold review of DPC.* Similarly his representation dt.22.6.93 was examined and suitably replied that his case of promotion could not be cleared


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by DPC due to unsatisfactory record of service for the last 5 yrs. The contention of the applicant that the promotion should not be withheld is baseless.

12. In reply to para - 5(v) : It is clearly mentioned in the para-6-2-1- of the OM NO.22011/5/86-Estt(D), dt.10.4.89 that CRs of 5 yrs are to be verified and in the letter dt. 30.1.90 of DG Posts it is specifically stated that the record of service for the preceeding 5 yrs, should be verified by the DPC. The recorded DPC minutes and proceedings have been examined by the DPS (second respondent) and the first respondent (PMG) and his representations were disposed off.

13. In reply to para-5(vi) : There is no bar that the divisional Supdt. Medak (third respondent) should not preside over the DPC. His promotion was not cleared by the DPC, constituting of SP, Medak and two other gazetted officers, examined his case and gave recommendations when the procedure of verifying past 5 yrs record exists, the contention of the applicant that 'censure' is not a bar for promotion, does not hold any water. Besides, 'censure', during past 5 yrs he was awarded the punishment of reduction ~~of~~ to the lower stage in time scale of pay.


14. In reply to para - 5(vii) : The first and second respondents disposed the representations, dt.17.12.92 and 22.6.93 only though the relevant records and examination of the ruling position, Since the applicant did not possess good record of service his case was not found fit to be interefered by the first and second respondents also.


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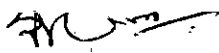
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In as much as the applicant has not made out any case, it is submitted that the original application may be dismissed with costs.


Deponent
Assistant Director of Postal Services
O/o. The Postmaster-General,
Hyderabad Region, Hyderabad-500 001

Sworn and signed before me
on this the 9th day of Feb
, 1994 at Hyderabad.

Before me


Attestor.

Accounts Officer ICO (SB) HR & CP
o/o Post-Master General,
5th Floor, Dak Sadan,
Hyderabad-500 001.

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... Respondents.

Counter Affidavit



Received on
10.2.94

V. S. Ramesh
for the Respondent

8
11/2/94

may be filed
10/2/94

Filed by:-

N. V. Raghav Reddy
Adm.