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

O.A. NO. 1596/94

DATE OF JUDGMENT: 30-3-95

BETWEEN:

Mohd. Badiuzzamma : Applicant

and

1. The Supdt. of Post Offices
Nandyal Division
Nandyal
Kurnool Dist.

2. The Chief PMG
AP Southern Region
Ashok Nagar
Kurnool 5

3. The Director General
Dept. of Posts
Dak Bhavan
Parliament Street
New Delhi 1

: Respondents

COUNSEL FOR THE APPLICANT: SHRI Krishna Devan, Advocate

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI A. B. GORTHI MFMEEER (ADMN.).

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OA.1596/94

Judgement

(As per Justice Sri V. Neeladri Rao, Vice Chairman)

Heard Sri Krishna Devan, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for the respondents.

2. This OA was filed praying for declaration that the applicant is entitled for promotion under Time bound one promotion (TBOP) Scheme from 1-10-1992 and for consequential benefits and for direction to the respondents to refix the pay of the applicant in the pay scale of Rs.1400-2300 by applying Rule FR 22(C) and for further direction to the respondents to pay arrears on account of such refixation of pay.

3. The TBOP Scheme has come into effect from 1-8-1991. Under the said scheme, an employee in the Postal Department who completed 16 years of service has to be considered for promotion irrespective of the existence of the vacancies. The same scheme was extended to the employees in the Savings Bank Control Organisation (SBCO) in which the applicant is working. It is stated that the case of the applicant was not considered under the said scheme till 30-9-1992 as the punishment of withholding increments for three years was being suffered by the applicant from 1-10-1989 to 30-9-1992.

4. While it is submitted for the applicant that even after 1-10-1992, the case of the applicant was not considered under TBOP Scheme, the respondents produced the proceedings of the DPC which met for consideration for promotion as on 1-4-93 and 1-4-1994. They disclose that the case of the applicant also was considered on the basis of the ACRs for 5 preceding years each time; but the DPC had not recommended the case of

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the applicant for promotion. They also disclose that the DPC had not recommended promotion of some other employees also.

5. It is urged for the applicant that an employee has to be promoted if no disciplinary proceeding is pending against him/her. But the learned standing counsel for the respondents is relying upon OM No.F.22011/5/86 Estt, dated 10-3-1988, that even in the case of non selection, promotion will not be given as a matter of course, and it has to be earned by the employee, and fitness for promotion in the case of non selection has to be considered on the basis of the assessment as per the ACRs. It is further submitted for the respondents that even promotion under TBOP Scheme is also on the basis of fitness.

6. OM dated 10-3-1988 referred to supra discloses that the relevant para i.e. para 2.2.1, ~~is~~ is equally applicable in regard to the non selection. The promotion even under TBOP Scheme is subject to fitness and hence the DPC has to look into the ACRs of those who completed 16 years of service for consideration as to whether the employee ^{but} has to be declared ~~for~~ for promotion or not. Hence, the contention that the promotion has to be given as a matter of course when the employee is not facing the disciplinary action ~~has~~ to be negatived.

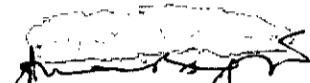
7. The applicant had not attributed malafides to the Members of the DPC. It is well settled that it is not for the Court/Tribunal to reassess on the basis of the ACRs. Hence, it is not open to this Tribunal to reassess on the basis of ACRs of the applicant in order to determine whether the applicant is fit or not for promotion.

..4).

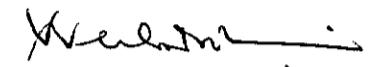
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8. As it is a case where the applicant was considered for promotion as on 1-4-1993 and 1-4-1994 and as the DPC did not recommend the case of the applicant for promotion on both the occasions and as no motive is attributed to the Members of the DPC, this OA fails and accordingly it has to be dismissed.

9. In the result the OA is dismissed. No costs. /



(A.B. Gorthi)
Member (Admn.)



(V. Neeladri Rao)
Vice Chairman

Dated : March 30, 95
Dictated in Open Court

Amritha 30/3/95
Deputy Registrar (J)CC

To

1. The Superintendent of Post Offices,
Nandyal Division, Nandyal, Kurnool Dist.
2. The Chief PMG A.P.Southern Region,
sk Ahoknagar, Kurnool-5.
3. The Director General, Dept.of Posts, Dak Bhavan,
Parliament Street, New Delhi-1.
4. One copy to Mr.Krishna Devan, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

*Post Office
Salem*

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE- CHAIRMAN

AND

A. B. Gorde
THE HON'BLE MR. R. RANGARAJAN M (ADMIN)

DATED - 30 - 3 1995.

ORDER/JUDGMENT:

M. A. / R. A. / C. A. NO.

O. A. No. 1596 in 94

T. A. No. (W. P.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

