

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 98/95

Date of Order : 20.1.98

BETWEEN:

T.Haranatha Babu

.. Applicant.

AND

Hyderabad Region, Hyderabad.

2. Chief Postmaster General,
A.P.Circle, Hyderabad.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

CORAM:

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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

2. The applicant in this OA joined as a Postal Assistant on 29.11.61. He has become eligible for promotion under the BCR scheme w.e.f. 1.10.91. The BCR scheme was introduced only w.e.f. 1.10.91. The applicant was not promoted under that scheme. He submitted a representation dated 1.2.94 (page-14) for promoting him under BCR scheme on 1.10.91. It is stated

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that the representation is still to be disposed of. However, the learned counsel for the respondents submitted that his case was considered on the basis of his representation and rejected.

3. This OA is filed praying for a direction to the respondents to promote the applicant as a BCR cadre according to his turn with effect from the date his junior ST official promoted and to release the increments due in 1988, 1989, 1990, 1991, 1992 and 1993 with all consequential benefits.

4. This OA is filed by the applicant due to his non-promotion which came into effect on 1.10.91. If the OA is decided in his favour for directing the respondents to promote him w.e.f. 1.10.91 i.e. the date of introduction of the BCR scheme then even if the official is an ST candidate he cannot get promotion under that scheme earlier to 1991.

5. In page-3 of the reply the respondents admit that the applicant was due for promotion under BCR scheme w.e.f. 1.10.91 i.e. from the date of introduction of the scheme. But his case for promotion was not considered in the DPC held on 23.12.91 as the applicant had kept shortage of cash of Rs.5,241-10ps which came to light on 12.11.91 while working as SPM, Gurbabodi TSO. Hence his case was not recommended for promotion w.e.f. 1.10.91. It is further stated in the reply that the DPC held in respect of official to be promoted w.e.f. 1.7.92 the result of the applicant was kept in sealed cover as by then he was issued with a charge sheet.

6. On 1.10.91 when the applicant was eligible to be considered for promotion under the BCR scheme there was no charge sheet pending against him. Mere contemplation of charge sheet on that date is not a disqualification for promoting him to the higher grade. Even from the reply it is evident that even that

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contemplation was done only on 12.11.91 much later than 1.10.91 on which date the applicant was to be considered for promotion under the said scheme.

7. In Janakiraman's case reported in AIR 1991 SC 2010 the Apex Court had held that even the contemplation of the disciplinary action starts only from the issue of the charge sheet. As the applicant was not issued with the charge sheet and even the contemplation had not started w.e.f. 1.10.91, the respondents have no case to deny him the promotion under the said scheme w.e.f. 1.10.91. However the respondents are at liberty to initiate the disciplinary proceedings against the applicant if he is found guilty for ~~some~~ some charge even in the higher grade.

8. In view of what is stated above the applicant should be considered for promotion w.e.f. 1.10.91 and if he is found suitable, he should be promoted with effect from that date. However there is no bar for the respondents to proceed against him under disciplinary rules in the higher grade.

9. With the above direction the OA is disposed of. No costs.

Sd/- X X X
(B.S. JAI PARAMESHWAR)
Member (Judl.)

Sd/- X X X
(R. RANGARAJAN)
Member (Admn.)

Dated : 20th January, 1998

(Dictated in Open Court)

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Copy to:

1. Director of Postal Services, Hyderabad Region, Hyderabad.
2. Chief Postmaster General, A.P. Circle, Hyderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. N. V. Raghava Reddy, Addl. GSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR:
M(J)

DATED:

20/1/98

~~ORDER/JUDGMENT~~

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

in

C.A.NO.

98/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS
DISMISSED~~

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

BY COURT

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