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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A.No. 1087/95.

Dt. of Decision : 09-11-95.

C. Ramaish

.. Applicant.

Vs

Chief Post Master General,
A.P. Circle,
Hyderabad.

.. Respondent.

Counsel for the Applicant : Mr. B.S.A.Satyanarayana

Counsel for the Respondent : Mr. N.V.Ramana, Addl.CGSC.

CORAM:

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

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

O.A.No.1087/95.Date: 9/11/95JUDGMENT

X as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

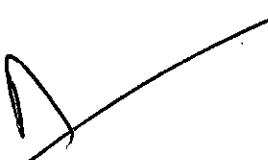
Heard Sri B.S.A.Satyanarayana, learned counsel for the applicant and Sri N.V.Ramana, learned Standing Counsel for the respondents.

2. The applicant who belongs to S.T. community joined P&T Department as Sorting Assistant on 5.7.1972. He was successful in the competitive Examination for I.R.M.S. during the year 1981.

3. It is submitted for the applicant that he was due for promotion as A.S.R.M. (Asst. Superintendent, RMS) in the year 1988. He was awarded a minor penalty of withholding increment for six months on 8.9.1988 by S.S.R.M., Hyderabad Sorting Division. This punishment was enhanced by the Director of Postal services to that of withholding his increment for 3 years on 3.3.1989 on revision. This penalty expired on 31.12.1991. He served with another charge-sheet and punished with withholding of increment ~~for 3 years~~ by the S.R.M., R.M.S., A.G.Division on 31.3.92 which punishment too expired on 16.11.1994. Another charge-sheet issued under rule 14 was dropped.

4. The contention of the applicant is that after the expiry of punishment on 16.11.1994, he should have been promoted atleast from 17.11.1994. As he was not given promotion even after 17.11.1994, he submitted representation to the C.P.M.G., A.P.Circle, Hyderabad (sole respondent) on 29.11.1994 (Annexure-1 pg.8 & 9). He was informed by

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the S.R.M., Guntakal Division vide his letter dt. 22.12.94 (Annexure-2) that his case for promotion will be considered in the next D.P.C. Even after that letter was issued some of the candidates alleged to be junior to him have been promoted after 22.12.1994 to the post of A.S.R.M.

5. Because of ~~unrepresentativeness~~ submitted another representation on 24.2.1995 to C.P.M.G., Hyderabad who informed through SRM, Guntakal by Annexure-A.IV letter that he was not found fit by the D.P.C.

6. Aggrieved by the above reply, he has filed this OA praying for scrutiny of the records of the D.P.C. which found him unfit for promotion from I.R.M. to A.S.R.M. from 1988 onwards and for a further direction to constitute a review DPC to consider his case for promotion in 1988.

7. The first contention of the applicant is that as he is a senior-most S.T. community candidate working as I.R.M. from 1981 onwards, he should have been promoted in the year 1988 itself when he was due for promotion at that time and his promotion cannot be withheld indefinitely. Even if the minor punishment of withholding of increment was awarded to him.

It is not in dispute that the applicant was punished with punishment of withholding increment initially for six months on 31.3.1992 which was later enhanced to 3 years from 6 months. By the time this penalty was expired issued with another charge-sheet and on 31.12.1991, he was awarded another penalty of stoppage of increments on 31.3.1992 which too expired on 16.11.1994. In view of the fact that he was undergoing punishment,

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the question of considering him for promotion does not arise. Eventhough, the applicant submits that the sealed cover procedure should have been adopted and he should have been promoted immediately after the punishment is over, this submission cannot be held as tenable in view of the judgment of Apex court reported in I A.M.D 1988/11 etc. etc. Vs. K.V.Janakiraman etc. etc. I wherein it was held that "if a penalty is imposed on an officer as a result of disciplinary proceedings or if he is found guilty in the court proceedings against him, the findings in sealed cover/covers shall not be acted upon." If any sealed cover procedure was adopted on 8.9.1988 on which date he was awarded the penalty of withholding of increments the same has to be treated as cancelled in view of the fact that the penalty was awarded to him consequent to the proceedings initiated earlier to 8.9.1988. During the period when he was undergoing punishment there is no need to adopt any sealed cover procedure as he was undergoing punishment till 16.11.1994. Hence the contention of the applicant that he should be promoted in 1988 itself cannot be acceded to in view of the fact that disciplinary proceedings had been initiated against him which ended in imposing a punishment of withholding of increments.

8. The second contention of the applicant, though very not/clearly stated means that an S.T. officer should be associated in the DPC proceedings whenever an S.T. candidate has to be assessed for his suitability for promotion.

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Even if an S.C. officer is there in the D.P.C. the applicant alleges that justice will not be done to S.T. community as the problems of SCs and STs are quite different. As per rule, only reserved community official has to be associated in the DPC to protect the interest of reserved community staff who appear for the selection. Nowhere it is stated that when an S.T. community official is there for his suitability for promotion, an ST community officer should be associated in the DPC meeting.

It has been submitted by the learned Standing Counsel that in the DPC proceedings held in the years 1994 and 1995 there was an S.C. community officer in the committee to look after the interests of reserved community people. The above is in accordance with rules. Even, CAT-Bombay Bench in a case reported in I 1995(3)(CAT) 236 - Dinkar Dattatraya Deomane Vs. UOI and Ors. I held that not having a member of SC on DPC cannot render it bad. The observation ~~maxx~~ would mean that even if there are no reserved community official in the DPC meeting, the recommendations of the DPC cannot be held as invalid. In view of the above, we see no substance in this contention also.

9. The applicant very feebly suggests malafides on the part of the Director of Postal Services who enhanced the punishment of withholding of increments from 6 months awarded to him on 8.9.1989 to 3 years. He also alleges that the above official was instrumental in awarding him punishment subsequently also so as to ensure that he will not get further promotion. The above allegation is not

To

1. The Chief Postmaster General,
A.P.Circle, Hyderabad.
2. One copy to Mr.B.S.A.Satyanarayana, Advocate, CAT.Hyd.
3. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. One spare copy.

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borne out by any records and is also not substantiated. Whenever any malafides are attributed to any official, the official should be impleaded in person to defend his case to adhere to the principles of natural justice. In this case, the Director of Postal Services, against whom some allegations are feebly made is not impleaded by name as one of the respondents. Hence this contention also fails.

10. In order to see whether the ~~exam~~ name of the applicant was considered ~~exam~~ for promotion to the post of ASRM in the year 1994 and 1995, we called for the minutes of the DPC meetings ^(the same was returned after perusal) by our order dt. 25.10.1995. As he was ~~free~~ from any punishment after 16.11.1994 which met in 1994 & 1995 and if DPC had cleared him he is entitled for promotion after that date. The records produced reveal that he was not found fit for promotion. Hence, the DPC had not recommended ~~him~~ promotion in the meetings held in the years 1994 & 1995. As the DPC had gone through the records fully as can be seen from the proceedings of the DPC and satisfied itself that he is not ~~fit~~ a fit person to be promoted, we see no reason to interfere in the proceedings of the DPC.

11. In view of what is stated above, we find no substance in this OA and hence the OA is liable to be dismissed. Accordingly, we dismiss the same at the admission stage itself. No costs.

(R.Rangarajan)
Member (Admn.)

(V.Neeladri Rao)
Vice Chairman

Dated 9 Nov., 1995.

Grh.

*Amrit
23/11/95*
Deputy Registrar (OJCC)

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRIKHO
VICE CHAIRMAN

AND

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

DATED: 9 - 11 - 1995

ORDER/JUDGMENT

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

in

O.A.No. 1087/95.

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

p.v.m.

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31-11-95

