

48

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:

AT HYDERABAD

O.A.No. 63 OF 1996.

Date of Order: 17-6-1998.

Between:

P. M. Madhavarami Reddy. .. Applicant

and

1. The Secretary to Govt. of India,  
Ministry of Communications,  
New Delhi-110 001.
2. The Director General, Telecom,  
Samchar Bhavan, 20 Ashoka Road,  
New Delhi-110 001.
3. The Director General, Posts,  
Dak Tar Bhavan, Parliament Street,  
New Delhi-110 001.
4. The Chief General Manager, Telecom,  
Andhra Pradesh, Hyderabad-500 001.
5. The Chief Postmaster General,  
Andhra Pradesh, Hyderabad-500 001.
6. The General Manager, Telecom,  
Hyderabad Area, Secunderabad-500 003.
7. The Postmaster General, Hyderabad-500 001.
8. The Telecom District Manager,  
Tirupati-517 550.
9. The Superintendent of P.O.s,  
Nizamabad-503 001.
10. The Postmaster, Sangareddy-502 001.

.. Respondents

COUNSEL FOR THE APPLICANT : Mr. U.R.S. Gurupadam

COUNSEL FOR RESPONDENTS : Mr. K. Bhaskara Rao

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S. JAI PARAMESHWAR, MEMBER (JUDL)

*Dr*

...2

ORDER

( PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (J) )

Heard Mr. U.R.S. Gurupadam, learned Counsel for the Applicant and Mr. K. Bhaskara Rao, learned Addl. Standing Counsel for the Respondents.

2. The applicant herein was appointed as Time Scale Clerk in the Nizamabad Postal Division in the scale of pay of Rs.110-240. He worked as such from 7-11-1967. He was granted Quasi Permanent Certificate from 11-11-1970, vide Letter No. B.9-4/71, dated 17-9-1971, by the Superintendent of Post Offices, Nizamabad. He was appointed as Time Scale Clerk from 1-3-1971, vide Order No. B.9-3/III, dated 7-9-1971 of the Superintendent of Post Offices, Nizamabad.

3. While working as such, the applicant submitted his application for the recruitment of Technician in the scale of pay of Rs.110-240 through proper channel against the out-sider quota. He was selected as Technician and was directed to report at the Telecom Training Centre at Kakimada. Then the applicant tendered his resignation to the post of Time Scale Clerk at Nizamabad and joined the post of Technician to undergo training. Thus the applicant was relieved of the post of Time Scale Clerk on 21-9-1974. He reported at Telecom Training Centre, Kakimada on 22-9-1974.

4. The OTBP scheme was introduced in the Telecom Department from 3-11-1973. Under the said Scheme, an employee who had completed 16 years of service was eligible

for next higher scale. As on that date the applicant had not completed 16 years of service as Technician in the Telecom Department.

5. His main contention is that, his services as Time Scale Clerk in the Nizamabad Division shall be reckoned for the purpose of granting promotion under the OTBP Scheme i.e., his contention <sup>is</sup> that the period from 7-11-1967 to 21-9-1974 should be reckoned to be considered as case for granting him promotion under the OTBP Scheme.

6. His prayer for reckoning his earlier service as Time Scale Clerk was rejected. He was informed by Letter No.1-71/83-NCG(Pt.), dated 9-7-1990 that his request for promotion under the Scheme could not be acceded to. The said letter is at Annexure, IV, Page.35 to the O.A.

7. The applicant has filed this O.A. challenging the impugned Order dated 9-7-1990 and for a direction to the respondents to consider the entire period of service of the applicant in the Nizamabad Postal Division and his service as Technician in the Telecom Department for considering his case for promotion under OTBP Scheme.

8. The respondents have filed their counter stating that the applicant had tendered his resignation in the Postal Department and that his services in the Postal Department could not count for OTBP Scheme. He resigned the said post reckoning the service in the Postal Department for the purpose of granting OTBP in a technical cadre is not justified and that there are no grounds to grant ~~a~~ relief prayed for.

Br

...4

9. During the course of arguments, the learned Counsel for the Applicant relied upon the DG P&T letter dated 18-2-1984 enclosed to the letter of the G.M. Telecom, A.P. Circle, Secunderabad, dated 25-2-1984 (Annexure R-I to the Reply) to state that the services rendered by him as a Postal Assistant should also be taken into account for the purpose of counting service to grant him OTBP Scheme in the Technician cadre. For the above he relies on the following instruction given in the DG P&T letter. This instruction in the DG P&T letter reads as follows:-

"The question whether the scope of the scheme should be extended to Rule 38 transferees involving change of arm/cadre (e.g., Postal/Sorting Assistant to Telephone Operator, Postal Signaller to Telegraphist, etc) has been examined carefully in this office. Having regard to all relevant considerations, it has been decided to extend the scope of the time bound one promotion scheme to officials who have been permitted transfers from one arm of the service to another subject to the restrictions imposed in this office letters No. 69/9/59/SPN dated the 6th of March, 1959 and No. 57/19/66/SPR-I, dated the 1st of January, 1960 and subject also to the provisions relating to passing of confirmation examination, as amended from time to time. In other words, for computing 16 years service for determining the eligibility for Rule 58 transferees from one arm of service to another, the service rendered in the parent arm will be taken into account provided the two cadres carry identical scales of pay."

10. If the previous service in the identical scales of pay can be counted in the case of Rule 38 transferees

Br

there is no reason to deny the same to those who have been recruited from the previous ~~identical~~ <sup>Postal</sup> cadre. The R-4 has no right to interpret that rule in the way he had interpreted without obtaining the necessary approval for that from R-2 and R-3. He also contends that the filing of the reply in this O.A. by R-4 rejecting his claim in the face of the letter of DG P&T referred to above is incorrect and he should <sup>have</sup> ~~not~~ filed the reply and the reply should have been filed by R-2 and R-3.

11. When some instructions has been issued by R-2 and R-3 and those instructions are ~~not~~ <sup>not</sup> applicable <sup>in this case the</sup> ~~in view of~~ <sup>for</sup> R-4, then R-4 is perfectly at liberty to file the reply. It is not necessary to insist that the reply should be given by R-2 and R-3 only. Hence we do not see any necessity to reject the reply filed by R-4.

12. However, the learned Counsel for the applicant submits that he was posted as a Technician taking his technical resignation to fulfill certain rule position. As he <sup>had</sup> ~~is only a~~ <sup>for technical reason</sup> Technician resigned, he should not be deemed as a fresh appointee in the Technician cadre thereby denying him the benefit of the DG P&T letter referred to above. He is equally eligible to get the benefits that had been given by the DG & PT letter and that if that benefit is ~~to be~~ given then he will be eligible for promotion under OTBP scheme taking into account his previous service as Postal Assistant while working as a Technician now.

13. The question of extending the benefit to a direct recruit even if his resignation is to be <sup>one</sup> treated as technical is a policy decision. It is not

Br

...6

for the Court or Tribunal to evolve a policy for a Department. If the reply of the R-4 cannot be countenanced as it was filed without any proper reasoning then only the Court or Tribunal can interfere with such orders. In the present case R-4 had decided that the DG P&T letter is not applicable in the case of the applicant. We do not want to express any opinion whether it is applicable to the applicant or not as he has already stated that it is a policy matter. The applicant is at liberty to represent his case to the appropriate authority either R-2 or R-3 requesting them to extend the benefits granted by the DG P&T letter referred to above to him also. For that the applicant may, if so advised, submit a detailed representation to either to R-2 or R-3 who-ever is competent to decide the issue. We have no doubt in our mind that if such a representation is received by any one of them, the same will be disposed of by them in accordance with the Law.

14. With the above observations, the O.A. is disposed of. No costs.

  
( B.S.JAI-PARAMESHWAR )  
MEMBER (JUDL)

17.6.98

  
( R.RANGARAJAN )  
MEMBER (ADMN)

Dated at the 17th day of June, 1998  
-----  
Dictated to steno in the OpenCourt

*Amulya*  
DR *Amulya*

\*\*\*  
DSN

..7..

## Copy to:

1. The Secretary to Govt. of India, Min.of Communications, New Delhi.
2. The Director General, Telecom, Sanchar Bhavan, 20 Ashoka Road, New Delhi.
3. The Director General, Posts, Dak Bhavan, Parliament Street, New Delhi.
4. The Chief General Manager, Telecom, Andhra Pradesh, Hyderabad.
5. The Chief Postmaster General, Andhra Pradesh, Hyderabad.
6. The General Manager, Telecom, Hyderabad Area, Secunderabad.
7. The Postmaster General, Hyderabad.
8. The Telecom District Manager, Tirupathi.
9. The Supdt. of Post Offices, Nizamabad.
10. The Post Master, Sangareddy.
11. One copy to Mr.U.R.S.Gurupadam, Advocate,CAT,Hyderabad.
12. One copy to Mr.K.Bhaskara Rao,Addl.CGSC,CAT,Hyderabad.
13. One copy to HBSJP,M(J),CAT,Hyderabad.
14. One copy to D.R(A),CAT,Hyderabad.
15. One duplicate copy.

YLKR

26/7/98  
15

II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 17/6/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO:

in

D.A.NO.68/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
श्रेष्ठ / DESPATCH

- 1 JUL 1998

हैदराबाद न्यायपीठ  
HYDERABAD BENCH