

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 64 of 1996

Date of Order : 4-8-1998

Between :

S.C.J. Mohammad ... Applicant

AND

1. The Union of India represented by Director General, Department of Posts, Dak Tar Bhavan New Delhi 110001.
2. The Chief Postmaster General Andhra Pradesh Circle, Hyderabad.
3. The Postmaster General, Vijayawada Region Vijayawada.
4. The Senior Superintendent of Post Offices Guntur Division, Guntur. ... Respondents

Counsels :

For the Applicant	- Shri T.V.V.S Murthy
For the Respondents	- Shri K. Bhasker Rao

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The Hon'ble Shri R. Rangarajan	- Member (A)
The Hon'ble Shri B.S. Jai Parameshwar	- Member (J)

(Order per Hon'ble Shri R. Rangarajan, Member (A))

Heard Shri T.V.V.S. Murthy for the Applicant and Shri Bhasker Rao for the Respondents..

The Applicant in this O.A. joined as Postal Assistant on 10.8.65 in Guntur Postal Division. He was promoted as

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Lower Selection Grade Postal Assistant on 30-11-83 on completion of 16 years of service under the OTBP Scheme. He submits that he has to be promoted to Higher Grade of HSG II on completion of 26 years of service under the BCR Scheme. Two of his juniors were promoted under the BCR Scheme w.e.f. 1-10-1991 and 3-10-1991 respectively, but the Applicant was promoted under the said scheme w.e.f. 1-7-93. He further stated that as his juniors were promoted on 1-10-91 and 3-10-91, he should also be promoted from that date even if he had not completed 26 years service under the BCR Scheme. The Applicant relies on the judgement of the Bangalore Bench of this Tribunal (Annexure XII) in O.A. 403/92 decided on 3.8.93 and the judgement delivered by this Bench in similar cases following the directions given in the Bangalore Bench case. The Applicant also submits that the reply statement filed on behalf of the Respondents had no value at this stage, as the instructions had already been issued by the Postal Department ~~in~~ ^{for} adhering to the directions given by the Bangalore Bench and other Benches. He has also enclosed with his rejoinder the instructions of the Postal Department letter No. 22-5/95-PE.I dated 8-2-1996 and letter No. 44-60/96-SPB-II dated 24-9-1996, in this connection. The Applicant also submits that he had lost 564 days of service, as that period was treated as dies non due to his participation in a strike ^{and on other grounds.} He further adds that recently instructions have been issued by the Department of Personnel and Training to condone that absence and treat it as on duty. If that is so, the Applicant had also completed 26 years service when his juniors did so and promoted w.e.f. 1-10-91 and 3-10-91.

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The Applicant had made a representation addressed to R-4 for consideration of his case for granting him the BCR promotion with effect from the date his juniors were promoted. It is stated that no reply ~~has been~~^{was} given to the applicant.

Aggrieved by the above, he has filed this O.A. praying for a direction to the Respondents to consider his case for promotion to HSG II without insisting on the condition of his completing 26 years of service in the basic as well as the LSG Cadre, as stipulated in the BCR Scheme by virtue of the seniority in the LSG Cadre and promote on par with his juniors w.e.f. 1-10-91 with all consequential service and monetary benefits including seniority and payment of arrears of pay and allowances with interest at 18% p.a. from such date.

In the reply filed by the Respondents it is stated that 564 days of his service was treated as non-qualifying service and the details of the days which were treated as non-qualifying service has been given in para 8, page 3 of the reply. Hence he had not completed 26 years of service on the date when his juniors were promoted, and he was promoted under the BCR Scheme w.e.f. 1-7-93, when he had completed 26 years of service after deleting the non-qualifying service of 564 days.

The first contention in this O.A. is that when juniors are promoted the seniors are also eligible to be promoted, even if they have not completed 26 years of service, in view of the direction given in O.A. 403/92 by the Bangalore Bench of this Tribunal. Similar direction was also given by this Tribunal in a number of cases. Hence, even if he had not completed

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5 years of service when his juniors were promoted, the Respondents cannot deny promotion on par with his juniors in view of the directions given in the cases referred to above.

Further, the Respondent organisation has issued instructions to promote the seniors when the juniors were promoted under OTBP and BCR Scheme by letter No. 22-5/95-PE-I dated 8-2-1996 and No. 44-60/96-SPB-II dated 24-9-1996. Hence, the Respondents cannot deny him promotion under the BCR Scheme w.e.f. 1-10-91 when his juniors were promoted.

//The facts of the cases referred to by the Applicant, which were disposed of by the Bangalore Bench and this Tribunal are entirely different. In those cases some of the juniors were promoted in an accelerated manner due to various schemes. When they had not completed 26 years of service and those in the lower grade were promoted as they had completed 16 years or 26 years of service respectively, then the Bench had given a direction to promote others in higher grade even though they had not fulfilled the service - eligibility condition. The instructions given by the Postal Department is in the context of the directions given on the facts of the cases disposed of by the Bangalore Bench and this Bench. The Applicant lost 564 days of service as that period was not considered as qualifying service. Therefore, the facts in the cases disposed of by the Bangalore Bench and the facts in the present case are entirely different and hence the Applicant cannot get relief by quoting these cases. In view of the above, this contention is rejected.

The second contention of the Applicant is that the non-qualifying service of 564 days has to be regularised as duty in view of the recent instructions given by the D.O.P. & T. No. 33011/2(S)/96-Estt.(B) dated 9.12.96 (page 6, Annexure I to the rejoinder). If that period of non-

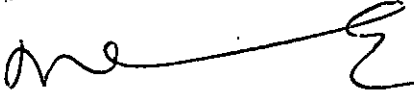
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qualifying service of 564 days is to be treated as
duty or even as leave then, his case should be reviewed
by the Respondents in accordance with law and if he
satisfied the condition of 26 years of service when
his junior was promoted on 1-10-91, then his case
should also be considered for promotion ^{from} on that date ^{under BCL Scheme}
The decision taken in this connection should be informed
to the Applicant within 3 months from the date of receipt
of a copy of this judgement.

With the above direction the O.A. is disposed of.
No costs.


(B.S. Jai Parameshwar)
Member (J)


(R. Rangarajan)
Member (A)

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Dictated in open Court

Dated : 4-8-1998

... js/-

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DA.64/96

Copy to:-

1. The Director General, Department of Posts, Dak Tar Bhavan, New Delhi.
2. The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad.
3. The Postmaster General, Vijayawada Region, Vijayawada.
4. The Senior Superintendent of Post Offices, Guntur Division, Guntur.
5. One copy to Mr. T.V.V.S.Murthy, Advocate, CAT., Hyd.
6. One copy to Mr. K.Bhesker Rao, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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4/8/98

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II COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

4/8/98

~~ORDER/JUDGMENT~~

~~M.A/R.A/C.P.NB.~~

in
C.A. NO. 64/96

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

