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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No.763/96

Dt. of decision:27-6-96

Between:

K. Chandraiah

.. Applicant

and

1. Superintendent of Post Offices,
Karimnagar District, Karimnagar.
2. Chief Postmaster-General,
A.P.Circle, Hyderabad.

.. Respondents

Counsel for the applicant : Sri S.Ramakrishna Rao

Counsel for the respondents: Sri N.R. Devaraj, SrCGSC

CORAM

Hon'ble Mr.Justice M.G.Chaudhari : Vice Chairman

Hon'ble Mr. H. Rajendra Prasad : Member (A)

Judgement

(Oral order as per Hon'ble Mr.Justice M.G.Chaudhari, V.C.)

Heard Shri S. Ramakrishna Rao for the applicant
and Sri N.R.Devaraj, Sr.Central Govt. Standing Counsel
for the respondents.

2. The applicant was promoted as Postal/Sorting Assistant
on 29-12-89. At that time the prescribed minimum qualifica-
tion for a Postman to be promoted as Assistant was Matricu-
lation. The applicant fulfilled that qualification and was

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promoted. However, the Ministry of Communications, Department of Posts vide letter dt.31-3-89 introduced the educational qualification of 10+2 standard or 12th Class pass. As the applicant did not possess that qualification he was purported to be reverted. The applicant therefore filed earlier OA No.481/93. There were five other persons similarly placed like applicant and each one of them had filed an OA for similar relief. All these OAs were disposed of by a common order by the then Division Bench on 23-3-94. Purely on equitable consideration holding that inas much as the applicants had been promoted earlier to the new qualification being prescribed they could not be deprived the benefit of the incentive scheme of promotion for no fault on their part and as that was a mistake of the Department, That all the applicants were shown indulgence and were allowed to acquire the prescribed qualification of 10+2 standard or 12th Class Examination and if they acquired the said qualification they were directed to be retained on promotion. While extending this indulgence the order contemplated that the applicants had to pass the required examination ^{at} by the First Examination in 1996 to be conducted by any of the Universities. It was made clear in the order that those who did not so pass had to be reverted.

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3. In pursuance of the aforesaid concession made available to the applicant he appeared at the Intermediate Examination held in April, 1995, October, 1995 and March, 1996. However, unfortunately, he could not clear all the subjects and did not pass the First Examination. In terms of the order therefore which required passing of the First Examination held in 1996, ^{at} the applicant had lost the benefit of continuing on promotion and became liable to be reverted.

4. By this O.A. the applicant prays that the time for passing the Intermediate Examination may be further extended by two years^s to enable ^{him} the applicant to fulfil the requisite qualifications for the post of Postal Assistant and till that time the respondents may be directed to maintain status quo by not reverting him.

5. The learned counsel for the applicant made impassioned^{ed} plea that having regard to the long standing service of the applicant and as the University has permitted him to pursue the 2nd year course and to clear the 1st year also at the same examination which will be held at the end of two years. Equity demands that the time may be further extended. He submits that insofar as the applicant is concerned he was faced with domestic difficulties and perhaps because of that reason he could not clear all the papers and has not technically passed the 1st year examination. He submits

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that unless an extension is given which may be confined even to one more chance, the applicant will face reversion and lose the benefit of promotion under the Incentive Scheme which will be very harsh consequence ^{to be} faced by him. ~~and~~
Having regard to the fact that ~~eventually he is~~ ^{he is} ~~the~~ mistake ~~he~~ committed by the department in introducing a new higher qualification ~~even~~ after the applicant had been promoted ^{he is} ~~and was~~ legitimately entitled to continue ^{in the} ~~that~~ promotional post.

6. It appears to us that the injustice caused to the applicant owing to the initial mistake of the Department had been removed by the order in the earlier O.A. Needless to say that the applicant is bound by the said order. What therefore ~~has to~~ be seen in the light of the submissions of Mr.S.Ramakrishna Rao is that is it possible to show further indulgence to the applicant although it will be a matter purely lying within the domain of ^{equity} ~~equality~~ and our discretion. Having regard to the overall circumstances which are enumerated below, we are inclined to take a sym-pathetic view.

In the first place indulgence was shown on earlier occasion to remove injustice suffered owing to the mistake of the Department. It would not therefore be quite just to confine that benefit only to one chance. There is room to show some more latitude. After all, the applicant was

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serving as a Postman when the prescribed qualification was only Matriculation. With the new rules he had to acquire a higher qualification and it will be reasonable to assume that he could find it difficult to pass the Examination in one attempt. There would be no harm in giving further opportunity to him to work hard and acquire that qualification.

Secondly, as it is stated that the University has permitted him to pursue the 2nd year of Intermediate and to clear both the examinations viz. 1st and 2nd years in one attempt at the end of the 2nd year of the course, we think that giving one more opportunity to the applicant to clear the examination of Intermediate would be in conformity with that position.

Thirdly, since the applicant was promoted on 29-12-89 and has been working in the post till now and had gained experience in the post, it would ^{not} be reasonable to hurry his reversion without giving him legitimate opportunity to make himself fit to continue in the post. It would not be just and fair to deprive him of the benefit of the incentive scheme. It is a matter of common experience that passing of a University examination in the first attempt is not the absolute fact, but generally many

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students have to appear at the supplementary examination. There may be very many factors which can make it difficult for a candidate to pass the examination in first attempt. It cannot be lost sight of the fact that the applicant is a full time employee and has been working. He has to prepare himself within the time available after attending to his duty and we are informed that the applicant is appearing privately. Possibly, he was in need of tuition and perhaps needed more effort than the normal college going student. Additionally, as it is stated that the applicant had some domestic problem owing to the sickness of his wife, he may not have been able to prepare himself so well as to clear all the subjects in one attempt.

7. This O.A. has been filed on apprehension that the applicant may be reverted after 30-6-96 for not having passed the 1st examination of 1996 within the time stipulated by the earlier order. In view of above mentioned circumstances as we are inclined to give one more opportunity to the applicant the status quo is fit to be continued.

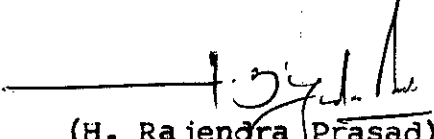
8. Accordingly the applicant is given one more opportunity to clear the Intermediate examination at the immediately next examination to be held by the Board of Intermediate Education, Andhra Pradesh during the calendar




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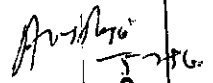
year 1996. In the event of the applicant passing the said examination the benefit as directed in the order dt.23-3-94 in O.A.No.481/93 shall be given to him. We make it clear that the concession now being given applies only to one more chance during the calendar year 1996 and does not apply thereafter. The respondents are directed to maintain status quo as on today in respect of the applicant until the expiry of one month from the date of declaration of result of the next Intermediate examination as will be held by the Board during the current year i.e.1996.

9. The O.A. is allowed. No order as to costs.


(H. Rajendra Prasad)
Member (A)


(M.G. Chaudhari)
Vice Chairman

Dt.27-6-96
(Open court dictation)


Deputy Registrar (D) cc

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1. The Superintendent of Post Offices,
Karimnagar Dist. Karimnagar.
2. The Chief Postmaster General,
A.P. Circle, Hyderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD :M(A)

Dated: 27-6 -1996

~~ORDER/JUDGMENT~~

M.A/R.A./C.A.No.

in

O.A.No. 763/96

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.

pvm

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेच/DESPATCH
15 JUL 1996
हैदराबाद बेंच
HYDERABAD BENCH