

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 863 of 1996

DATE OF ORDER: 7th August, 1996

BETWEEN:

B.KAMESWARA RAO

.. Applicant

and

1. The Postmaster General,
Visakhapatnam Region,
Visakhapatnam,

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

3. The Director General,
Department of Posts, Dak Bhavan,
Sansad marg, New Delhi-1.

.. Respondents

COUNSEL FOR THE APPLICANT: Shri KRISHNA DEVAN

COUNSEL FOR THE RESPONDENTS: SHRI K.RAMULU, Addl.CGSC

CORAM:

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

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri Krishna Devan, learned counsel for the applicant. None for the respondents.

2. The applicant was appointed as Postal Assistant on 9.3.62 and later Inspector of Post Offices/Inspector



of Railway Mail Service. On selection the applicant was allotted to the post of IPO/IRM batch of 1972. When the applicant was working as Assistant Superintendent of Post Offices on adhoc basis at Amalapuram Division, a regular post of ASP fell vacanct in the month of August 1982. The DPC which met on 20.8.82 did not recommend the case of the applicant for promotion on the ground that there were adverse entries in the Confidential Report of the applicant for the period from 1.4.81 to 30.12.81. It is also stated that a disciplinary case was pending against him at that time. The applicant filed W.P.No.827/83 on the file of the High Court of Andhra Pradesh. That was transferred to this Bench and renumbered as T.A.No.492/86. That T.A. was disposed of on 15.7.88 directing the Departmental Promotion Committee to consider the case of the applicant afresh taking into consideration the confidential report as modified by the appellate authority and the punishment imposed upon him in respect of the pending disciplinary action. It was also directed that if the applicant is found fit, he should be promoted from the date his juniors were promoted as a result of the proceedings of the DPC held on 20.8.82.

3. The adverse remarks in the confidential report was reported to have been expunged. It is also stated that the review DPC considered his case and found him fit for promotion. The Director of Postal Service, Visakhapatnam vide Memo No. ST/22/75 dated 22.11.88

A hand-drawn sketch of a graph. It features a sharp, narrow peak on the left side, followed by a long, smooth, and slightly downward-curving line extending towards the right.

(Annexure No.2) promoted the applicant to the post of ASPO (regular) with effect from 30.8.82 A/N and his pay was fixed notionally with effect from 30.8.82 with no arrears of pay and allowances.

4. The applicant submitted a representation to the Postmaster General by his representation dated 10.12.88 and also to the Director General, Department of Posts vide his representation dated 21.7.89 for payment of arrears of pay and allowances from the date of his retrospective promotion to the cadre of ASPO i.e., from 30.8.82 A/N. Those representations were disposed of by the letter No.AT.I/21-2/NER/136 dated 11.10.89 (Annexure No.4). From the letter it transpires that the applicant was not entitled for payment of arrears in view of Para 3 of the OM of Department of Personnel and Training vide No.22011/2/86-Estt(a) dated 12.1.88. As per para 3 of the above quoted letter of DoP dated 12.1.88, payment of arrears of pay for the period preceding the date of actual promotion is not allowed. The applicant filed a representation dated 14.1.92 addressed to R-3 herein stating that Para 3 of the Ministry of Personnel & Public Grievances OM dated 12.1.88 is not applicable in his case as no sealed cover procedure was adopted and hence he is entitled for arrears of pay and allowances for his retrospective promotion with effect from 30.8.82. It is further stated that the representation was followed by the reminders also. But no reply has been given to the pointed reference made by the applicant in his

representation dated 14.1.92.

5. This OA is filed praying for direction to the respondents to pay him arrears of pay and allowances right from the date he was promoted as ASPO with retrospective effect.

6. In para 3 of the OM of Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training, dated 12.1.88, there is a clear indication that notional promotion will not entail for payment of arrears of pay and allowances for the period preceding the date of actual promotion. On the face of these instructions, no direction can be given in this OA. Moreover, the instructions in Para 3 of the Ministry of Personnel, Public Grievances and Pension circular dated 12.1.88 is not challenged in this OA. However, the applicant had requested R-3 to pay him the pay and allowances as he has submitted to R-3 that Para 3 of the Ministry's circular dated 12.1.88 is not applicable in his case for the reasons stated in his representation. That representation was not replied so far. Hence it is essential that R-3 should examine the contention made by the applicant in his representation dated 14.1.92 and take a considered view in that connection. A speaking order in this connection has to be issued to the applicant by R-3 on the basis of final decision taken to his representation dated 14.1.92. If the applicant is going to be aggrieved by the reply to be given to his representation dated 14.1.92, he is free to approach this Tribunal by filing a fresh O.A. under the relevant



(35)

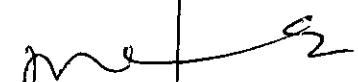
(9)

provisions of the A.T. Act.

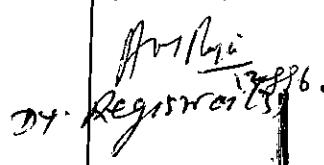
7. In the result, the following direction is given:-

R-3 should consider the representation of the applicant dated 14.1.92 and issue a speaking order to the applicant indicating reasons why Para 3 of the Ministry of Personnel, Public Grievances & Pension O.M.No.22011/2/86-Estt(A), dated 12.1.88 is applicable in his case. Time for compliance is two months from the date of receipt of a copy of this order. If the applicant is going to be aggrieved by the reply to be given to him, he is at liberty to approach this Tribunal by filing a fresh OA under the relevant provisions of the A.T. Act.

8. The O.A. is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 7th August, 1996
Open court dictation.


D.Y. Registrar 1996.

vsn

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O.A.863/96.

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Copy to:-

1. The Postmaster General, Visakhapatnam Region, Visakhapatnam.
2. The Chief Postmaster General, A.P. Circle, Hyd.
3. The Director General Department of Posts, Dak Bhavan, Sansad marg, New Delhi-1.
4. One copy to Sri. Krishna Devan, advocate, CAT, Hyd.
5. One copy to Sri. K. Mulu, Addl. CGSC, CAT, Hyd.
6. One copy to Library CAT, Hyd.
7. One spare copy.

Rsm/-

22/8

01-863/96

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COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED:

7/8/96

ORDER/JUDGEMENT

D.A. No./R.A.C.P. No.

D.A. NO.

in
863/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

