

Annexure A,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

O.A. No. 1742 OF 1997.

Dated: 30-12-1997.

Between:

C. Aswartha Reddy.

... Applicant

AND

Union of India, represented by:

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

2. The Director of Postal Services,
Office of Post Master General,
Kurnool Region, Kurnool.

3. The Superintendent of Post Offices,
Preddatur Division, Preddatur,
Cuddapah District.

... Respondents

COUNSEL FOR THE APPLICANT(S): Mr. K. S. R. Anjaneyulu

COUNSEL FOR THE RESPONDENT(S): Mr. N. R. Devaraj

CORAM:

HON'BLE SRI H. RAJENDRA PRASAD, MEMBER (ADMN)

ORDER

(AS PER HON'BLE SRI H. RAJENDRA PRASAD, MEMBER (ADMN))

Heard Mr. K. S. R. Anjaneyulu for the Applicant and Mr. N. R. Devaraj for the Respondents.

2. The applicant while working as Time Scale Postal Assistant at Preddatur Head Office was promoted under TBOP Scheme and offered a choice either to select the general line or accounts line. He opted for the general line and specifically declined to be selected as Accountant. This was duly acknowledged by the respondent no. 3 on 5-6-1991 (Annexure.4). For some reason a fresh option was called for during the year 1995 to which the applicant repeated his earlier plea. Since then the applicant has been continuing in the general line and currently working as SPM, TSO, Preddatur. In a reversal of the earlier

College Road,

decision and ignoring his earlier option to the general line and their own acceptance of the option, the respondent no.3 has issued the Impugned Order posting him as Accountant in the Head Post Office, Preddatur, ~~xxx~~. This is the Impugned Order in the present case. After receiving this Order the applicant has made a representation to respondent no.2(Annexure 10) on 17-12-1997. This is stated to be not disposed of yet.

3. The re-posting of the applicant from general to accounts line is prima facie and patently incorrect in view of the position which earlier obtained and which has been indicated above. This cannot be sustained and the applicant's prayer merits acceptance since, however, the matter is before the Postmaster General, Kurnool. It is decided to allow him(PMG,Kurnool region,Kurnool) to dispose of the representation on merits of the case. Until then no action will be taken either to relieve the applicant from the present post or to fill up the ^{vacancy} as envisaged in Annexure.2.

4. The O.A. is disposed of at the admission stage with a direction to respondents 2 and 3 in terms order stated above. The applicant is also given the opportunity to approach this Tribunal in a miscellaneous application if such necessity arise. In case a decision is taken turning down or rejecting the request of the applicant, the same shall not be operated till a period of two weeks from the date of its receipt by the applicant. No costs. A copy of the OA will be sent to the Respondents along with a copy of this judgment.

CERTIFICATE
I hereby certify that the copy of the order of this Tribunal is correct.

T.C
Deputy Commissioner
Court of Appeal
Applicant

OA 1762/97

30/12/98

61/98

AM

Annexure A-2

GOVERNMENT OF INDIA
Ministry of Communications
DEPARTMENT OF POST

OFFICE OF THE POSTMASTER GENERAL, KURNOOL REGION
KURNOOL- 518 005

MEMO NO. ST.II/RT/1-8

Dated, Kurnool-5 the 19 th March, '98

Read the following:

- (1) S.P.Os., Proddatur Memo No.B/1-5/6/97 dated 10-12-97.
- (2) Representation dated 17-12-97 of Sri C. Aswartha-Reddy, S.P.M., College Road TSO (Proddatur) addressed to the P.M.G., Kurnool.
- (3) Hon'ble CAT, Hyderabad order Dated 30-12-97 in O.A. No. 1742 of 1997.

The Supdt.of Post Offices, Proddatur Division, Proddatur has issued orders transferring Sri C. Aswartha-Reddy, S.P.M., College Road TSO (Proddatur) as Accountant Proddatur H.O., in the vacant post, vide his memo No.B/1-5/6/97 dated 10-12-1997. Aggrieved over this transfer, the official has submitted a representation dated 17-12-1997 addressed to the Postmaster General, Kurnool. Before the representation is disposed of by the P.M.G., the official approached Hon'ble CAT, Hyderabad against the orders of his transfer in OA No. 1742/1997. The Hon'ble CAT, Hyderabad has disposed the OA at the admission stage itself with directions to the P.M.G. to dispose of the representation on merits of the case vide its order dated 30-12-97. Therefore, the representation of the official is taken now into consideration.

2. The official in his representation dated 17-12-97 put forth the following pleas:-

(i) that ~~xxx~~ he was appointed in the higher scale of pay of Rs.1400-2300 with effect from 16-1-96 under TBOP scheme on completion of 16 years of service and on his appointment in the Higher scale he opted for general line and it was accepted vide SPOs, Proddatur memo No.B/1-6/35 dated 2-2-96.

(ii) During Rotational transfers 1996, he represented for posting as S.P.M., College Road TSO (Proddatur town) and accordingly he was posted and working as SPM, College Road TSO since 6-6-1996.

(iii) By virtue of his working as SPM, he is at present getting benefits like HRA in lieu of rent free quarters, incentives on MIS, IVP issue and discharge, cash handling allowance etc. attached to the post and that the post of Accountant is Time scale one and he will not get any special pay attached to the post because he is in LSG cadre. Further he pleaded that he will loose all these allowances on his posting as Accountant and thus there will be considerable monetary loss to him.

(iv) The Accountant post is a time scale one and it appears to him to be a reversion to him.

3. I have examined the case in detail with available records and the position is discussed hereunder:

(i) & (ii): The promotion of the official to LSG under TBOP scheme and acceptance of his option to general line by the SPOs, Proddatur are quite in order and as per the rules and orders contained in DG Post letter No. 9/2/84/SPB-II dated 25-9-84. Para 3 of the said D.G. Post ruling stipulates that P.O./RMS Accountants at the stage of completion of 16 years of service moving on to LSG scale of pay is required to opt either for LSG general line or P.O./RMS Accountant and if such an official even opt for General line, he shall be shifted to that line only if a T/S qualified Accountant in a division is available as replacement and if no T/S Qualified Accountant is available as replacement, such an official shall be continued to hold the post in LSG scale of pay until a qualified P.O. & RMS Accountant becomes available to replace him. In the case of the official, he got promotion under TBOP with effect from 16-1-96. It is a fact that he opted to general line, but there are no T/S qualified Accountants available in the division on a replacement to shift him to General line. In the light of these instructions, the SPOs should not have transferred and posted him as S.P.M., College Road TSO keeping the interest of service in view even though the official has represented for such transfer.

(iii): The benefits like HRA in lieu of rent free Quarters, incentives, cash handling allowance etc. are not permanent in nature. The officials who work as SPMs and not provided with Quarters are entitled for drawal of additional limited HRA in lieu of rent free Quarters. The cases of such officials will be negligible in any division. All the complete operative staff of the division working in other offices are also not entitled for benefits like incentives, cash handling allowances etc. When all the other officials i.e. his own colleagues are not enjoying these benefits, it is not ~~fair~~ fair on the part of this official to argue that he will loose all the benefits if he again works as Accountant. Moreover, the benefits like Honorarium for drawal of arrears of allowances, arrears of pension and over time allowance etc. are those for Accountants also. Therefore, his contention that posting him back as Accountant will be a considerable loss to him ~~is~~ is untenable.

(iv) The post of Accountant and the post of SPM, College Road TSO both are T/S one. Therefore, the argument of the official that his posting back as Accountant is a reversion is not at all correct and it is misrepresentation of facts.

4. TBOP scheme was introduced with effect from 30-11-83 with a view to improve promotional prospects of employees of the Department of Posts. As per this scheme, the officials who complete prescribed satisfactory length of 16 years service in the appropriate grade are placed in the next higher grade. On the introduction of this scheme the availability of the supervisory staff i.e. LSG etc. has become surplus and these

:-3:-

officials were even allowed next higher scales without assuming higher responsibilities by them. Thus the Department was magnanimous towards his employees and allowed this promotion under TBOP. Under this scheme only, the official got his promotion to TBOP cadre while working as Accountant. Even at the time of his promotion to LSG under TBOP, the special pay drawn by the official as Accountant was also taken into account while fixing his pay in the next higher scale. Thus the official has got recurring benefit permanently for having worked as Accountant. Now coming up with a plea that his posting back as Accountant would be a monetary loss to him is quite incorrect. Even the post of SPM, College Road in which he is presently working is a Time Scale post only and not LSG. It makes no difference if he is asked to work as Accountant. No monetary loss would be sustained by the official if he is posted back as Accountant as per the discussions above. One more advantage given to the official is that he is posted as Accountant in the same station and no inconvenience is caused to his family.

5. In view of the foregoing, I feel that Sri C. Aswartha Reddy should be asked to work as Accountant, Proddatur H.O. in the interest of service. Accordingly, the representation of Sri C. Aswartha Reddy, S.P.M., College Road TSO dated 17-12-97 is considered, but rejected.

However, this shall not be operated till a period of two weeks from the date of its receipt by the official, as directed by the Hon'ble CAT in the above mentioned O.A.

R.S. Nataraja Murty
(R.S. Nataraja Murty)
Postmaster-General
Hyderabad Region
(Addl. charge of Kurnool Region)

A copy of this memo is issued to:-

R.H.D. 1. Sri C. Aswartha Reddy, S.P.M., College Road TSO (Proddatur Town) through the S.P.Os., Proddatur Divn.

B.I. 2. The SPOs, Proddatur Division, Proddatur with one spare copy. The copy meant for the official may be delivered to him under clear receipt and acknowledgement kept on record.

3. Guard file.

V.M.
for Postmaster-General
Kurnool Region, Kurnool
518005.

*T.P. Deo
Deputy
Counsel for the
applicant* ****

Annexure A-3

ADDMI - YEAR 40 TO THE DEPARTMENT OF POSTS :: INDIA

dtd. 28.9.84 A copy of DG P&T New Delhi L.P. No. 9/2/84/SPB-II
bad letter No. Est. 2-3/83 dtd. 23.11.84

Sub:- Applicability of Time Bound One promotion scheme to PO & RMS Accountant.

Sir,

I am directed to refer to para 21 of this O.M. No.
31.26/83-PE-I dtd. 17.12.83 and to say that a PO & RMS Accountant at the stage of completion of 16 years of service before moving on to LSG scale of pay is required to opt for either of the two lines of promotion i.e.,

i) LSG General line, or

ii) PO & RMS LSG Accountant.

as per instructions contained in Memos Nos. 6-1/50-SPB dtd. 8.5.59 and 6-15/60-SPB II dtd. 16.7.70. The option once exercised is final.

2. The President is now pleased to decide that if such an official opts for the Accounts line he may be allowed to hold the post of Accountant in the LSG scale of pay i.e., Rs. 425/640 but without special pay which was being drawn hitherto. However, such officials would be eligible for promotion to HSG - II General line in accordance with the existing rules.

3. On the other hand were such an official to opt for the General Line, he shall be shifted to that line. In such a contingency a qualified Accountant will be posted as PO & RMS Accountant in that vacancy on Time Scale pay with a special pay. In cases where no qualified accountant in a Division is available as replacement, such an official shall continue to hold the posts in LSG scale of pay until a qualified PO & RMS Accountant becomes available to replace him. In that event his seniority in the General Line shall be protected. The instructions contained in Note Below Rule 276 of P&T Manual Vol. IV will continue to be applicable in such cases.

4. The case in which Heads of Circles have already taken action, in contravention of the instructions in the proceeding paras may be decided in the following manner:-

(Contd., 2p...)

1. If a qualified PO & RMS Accountant on promotion to LSG UNDER Time Bound one Promotion Scheme, has been replaced by another qualified PO & RMS Accountant in the Time Scale, no change in the arrangement already ordered should be made.

If a vacancy of Accountant subsequently becomes available in the division Unit, the qualified PO & RMS Accountant who has been promoted to LSG under the Time Bound One promotion scheme and was replaced by another qualified Accountant in the time scale, may be considered for posting against this vacancy.

2) If a qualified PO & RMS Accountant on promotion to LSG under the time bound one promotion scheme has been replaced by an unqualified time scale official, and the qualified official given option for the accounts line, he may be reverted to the post of Accountant even in LSG but without the benefit of special pay.

3) If an unqualified official in the time scale was working against a post of PO & RMS Accountant and he has been replaced by another unqualified PO & RMS Accountant, on his promotion to LSG under the time bound onepx promotion scheme and the former official has not yet completed his tenure, he may be allowed to hold the post of Accountant even while in the LSG scale of pay without the benefit of special pay.

The arrangements already made by the Heads of Postal Circle in respect of the posts of PO & RMS Accountants may be reviewed by the Heads of Circle in the light of these instructions.

Sd/- (K.L. SHARMA)
Asst. Director General (SPN)

T.C
Deputy
Counsel for the
Applicant

To reopen the case

IN THE CENTRAL ADMINISTRATIVE

TRIBUNAL: HYDERABAD BENCH

HYDERABAD.

M.A. No: 1742 of 1998

in

O.A. No: 1742 of 1997.

Between:

C. Aswartha Reddy .. Applicant.

and

Union of India
represented by
CPMG & 2 others.

Respondents.

APPLICATION FILED UNDER RULE 8(3)

OF CAT PROCEDURE RULES, 1987.

1742 of CAT 1985

FILED ON: 15-4-98

Recd
15/4/98
R N. R. Dev

FILED BY THE COUNSELS FOR THE

APPLICANT.

K.S.R. ANJANEYULU &
D. SUBRAHMANYAM
Advocates, Jawaharnagar,
Bakaram, HYDERABAD.

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Reopened
15/4/98
R N. R. Dev