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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.324 OF 1999.

DATE OF ORDER:11-6-1999.

BETWEEN:

T.Ramanaiah.

....Applicant

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1. Union of India, represented by its Member(Personnel), O/o Director General of Posts, New Delhi.
2. The Chief Postmaster General, A.P.Circle, Daksadan, Abids, Hyderabad.
3. The Postmaster General,Vijayawada.
4. The Superintendent of Post Offices, Gudurk Nellore.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.Krishna Devan

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narasimha Sharma

CORAM:

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

A N D

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

: O R D E R :

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

None for the Applicant.

Heard Mr.M.C.Jacob for Mr.B.Narasimha Sharma, learned Standing Counsel for the Respondents. Sri N.Hari Muthyam, ASP, is present with DPC Proceedings for the period 1-1-1996 to 30-6-1996 and the Review DPC held on 31-8-1997.

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2. The applicant claims to have completed 26 years of service and to have become eligible for promotion under the BCR Scheme with effect from 1-2-1996. He submits that in the DPC held on 1-7-1996, he was not promoted. Then the applicant submitted a representation for promotion under the said Scheme with effect from 1-7-1996. In response to that the Respondent no.4 under instructions from the respondents 2 and 3 in the letter dated:10/11-2-1997, informed the applicant that after ~~the~~ examination of the representation, it was found that there was no reason to interfere with the decision of the DPC.

3. Thereupon, the applicant submitted another representation dated:15-3-1997 to the respondent no.2 followed by a reminder requesting to consider his case as the retirement of the applicant was scheduled on 31-8-1997. It is stated that the respondents waited till the applicant retired from service on 31-8-1997, and by the letter dated:3-10-1997, the respondent no.4 called upon the applicant to furnish a copy of the representation as a report was due to be submitted to the respondent no.3. Again on 14-10-1997, the respondent no.4 called upon the applicant to furnish a copy of the representation dated:15-3-1997. After submission of the required copies, the respondent no.4 in his letter dated:7-11-1997, informed the applicant that his case for promotion under the Scheme had been passed over by the DPC according to the Order dated:27-10-1997 bearing R.O.Memo. No.ST-1/16-13/Genl/IV, of the Respondent No.3.

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4. Thereupon the applicant in his appeal dated:6/1998, requested the respondent no.1 for kind interference. But the respondent no.4 in his letter dated:2-7-1998, communicated the decision of the 2nd respondent that the case of the applicant for promotion under the BCR Scheme with effect from 1-7-1997 was again passed over.

5. Hence, the applicant has filed this OA for the following reliefs:-

- i) to call for the records relating to the DPC proceedings in respect of the promotion of the applicant from 1-7-1996;
- ii) to declare that the applicant is entitled for promotion under BCR w.e.f. 1-7-1996 by holding that the action of the respondents in denying the promotion under BCR from 1-7-1996 onwards as arbitrary, unjust, illegal being violation of Articles 14, 16 and 21 of the Constitution of India;
- iii) to direct the respondents to convene a review DPC to consider the case of the applicant properly and also in accordance with the established norms and guidelines relating to considering the promotion under BCR; and
- iv) consequently to direct the respondents to re-fix the pay of the applicant along with consequential benefits in pursuant to the decision of the review DPC.

6. The respondents have filed their reply stating that the application is barred by time, that the applicant was promoted under the OTBP Scheme with effect from 2-2-1986,

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that on completion of 26 years of service, the applicant became eligible for consideration for promotion under the BCR Scheme with effect from 1-7-1996, that the applicant's case for BCR promotion was submitted by the Superintendent of Post Offices, Gudur Division, (the Respondent no.4), to the Chief Postmaster General, A.P.Circle, Hyderabad i.e., Respondent No.2, stating that there was no Disciplinary/Vigilance case pending or contemplated against the applicant, that the applicant was passed over for promotion to the BCR cadre with effect from 1-7-1996. Further they submit that the case of the applicant was submitted by the respondent no.4 to the respondent no.2, vide his letter dated: 5-2-1997, for promotion under the BCR Scheme with effect from 1-1-1997 with reference to respondent no.2 Circle Office, Hyderabad letter dated:27-1-1997 bearing No.ST/5-2/BCR/Jan.97. He was passed over again vide letter dated:1-10-1997 bearing No.ST/5-2/BCR/Jan.97.

7. The applicant submitted a representation to the CPMG, (Respondent No.2) with regard to his promotion. The Respondent No.2 found no reasons to re-open the issue. Thus they submit that the case of the applicant for promotion under the BCR Scheme was duly considered and found that the DPC had not recommended.

8. In order to verify whether the respondents considered the case of the applicant for promotion under the BCR Scheme or not, we directed the respondents to produce the DPC proceedings. The learned Counsel for the Respondents have produced the DPC proceedings.



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9. The file containing the DPC proceedings for promotion of the applicant for the period 1-1-1996 to 30-6-1996 is perused. The name of the applicant is at Serial No.36. In this DPC, the ACRs of the applicant for the years from 1990-91 to 1994-95 were considered.

a) During the year 1991, the applicant was graded Good/Average. Neither the learned Counsel for the Respondents nor the Official who was present today is not able to explain during the year 1991, the applicant was graded both Good and Average. Since no convincing answer is coming ^{forth} from the respondents, the DPC should take the grading of the applicant for the year 1991 as Good. We treat that the applicant was graded as Good for the year 1991;

b) For the years 1991-92, he was graded Average;

c) During the years 1992-93, the increment of the applicant was postponed for six months without cumulative effect due on 1-2-1993;

d) During the years 1993-94, he was graded ^{average} ~~over~~;

e) During the years 1994-95, he was awarded Censure and was graded as Average; and

f) During the years 1995-96, the pay of the applicant was reduced by one stage for six months with effect from 1-7-1995, vide Order dated: 29-6-1995 and he was graded as Average. He was not recommended.

10. The DPC proceedings containing promotions under the BCR Scheme from 1-1-1997 was perused. The case of the applicant is at Serial No.47. In the DPC his Confidential

Report, for the years 1991-92 to 1995-96 were considered.

- a) During the year 1991-92, his grading is Average;
- b) During the years 1992-93, an increment due to the applicant was postponed for six months without cumulative effect, vide letter dated:19-1-1993;
- c) During the years 1993-94, grading was Average;
- d) During the years 1994-95, he was awarded Censure ^{memo} vide /dated:28-6-1994, and was graded Average;
- e) During the years 1995-96 the pay of the applicant was reduced by one stage for a period of six months with effect from 1-7-1995 and was graded as Average; and
- f) Thus the DPC not recommended the case of the applicant for promotion from 1-1-1997.

11. On 20-6-1998, the review DPC met for considering the promotion of the applicant under the BCR Scheme who was by then retired. On perusal of the Review DPC proceedings, it is disclosed that, the ACRs for the years 1992-93 to 1996-97 were considered.

- a) During the years 1993-94, the applicant was graded Average;
- b) During the years 1994-95, the applicant was awarded Censure, vide memo dated:28-6-1994, and was granted Average;
- c) During the years 1995-96, the pay of the applicant was reduced by one stage for six months with effect from 1-7-1995, vide memo dated:29-6-1995 and was graded Average;
- d) It is submitted that the applicant was graded Average and it is stated that he was further warned for non-credit

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e) The OPC has not recommended his case for promotion.

13. We cannot interfere with the decision of the DPC.

(The DPC Proceedings, vide File No.ST/5-2/BCR/Jan'96 in C/w BCR promotion for the period 1-1-1996 to 30-6-1996, and File No.ST/5-2/BCR(Postal)/Jan'97, promotion under BCR 1-1-1997, and the Review DPC Proceedings, vide File No.ST/5-2/BCR/7/96-II, were perused and returned).

B.S. JAI PARAMESHWAR)
MEMBER (JUDL) 11649

(R.RANGARAJAN)
MEMBER (ADMN)

DATED: this the 11th day of June, 1999
Dictated to steno in the Open Court

DSN

Due Dec
12.698