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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 30.6.2000

OA No.7/1995

Hanuman Dutt Mangal S/o Shri Keshav Deo, R/o Telipada, near Khadi Ashram, Deeg, Distt. Bharatpur and Ex. Accountant, Office of the Superintendent of Post Offices, Bharatpur Division, Bharatpur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. The Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
3. Chief Postmaster General, Rajasthan Circle, Jaipur.
4. Director Postal Services, Jaipur Region, Jaipur.
5. Superintendent of Post Offices, Bharatpur Division, Bharatpur.

.. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P. Nawani, Administrative Member

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks following reliefs:

- "1. That the impugned orders Annexure A-1 and Annexure A-2 be quashed being unconstitutional and capricious and violative of articles 14 and 16 of the Constitution of India and principles of natural justice.
2. That the respondents be directed to promote the humble applicant to Lower Selection Grade and Higher Selection Grade-II under One Time Bound Promotion Scheme and Biennial Cadre Review Scheme (O.T.B.P. Scheme and B.C.R. Scheme) according to length of service of the applicant or under general orders prevailing before the introduction of these schemes according to the seniority

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of the applicant.

3. Any other relief which this Hon'ble Tribunal thinks just and proper in favour of the humble applicant including costs."

2. Shorn of details, the controversy in this OA lies in a narrow compass - whether the option dated 27.2.1993 exercised by the applicant, copy at Ann.A8 is valid or not. The Department of P&T had introduced a One Time Bound Promotion Scheme (for short OTBP) w.e.f. December, 1983 of giving one promotion to P&T employees excepting those categories of staff which are common with other Departments of the Government of India. Another scheme, called Biennial Cadre Review (for short BCR) was also introduced by the Department in October, 1991. The applicant was, in course of time, promoted to Lower Selection Grade, Rs. 1400-2300 and was posted as Assistant Postmaster (Accounts) Kota vide order dated 21.9.1988 but for personal reasons had to forego the promotion and thereafter he was not promoted, even after expiry of debarment of one year in the Accounts line inspite of request made on 1.2.1992. The Department invited options vide letter dated 4.12.1992 (Ann.R1) from P.O. and R.M.S. Accountants for remaining in the defunct pay scale of Rs. 380-620 and furnish the same before 28.2.1993. It was also added that those officials who do not opt within the stipulated period will be deemed to have opted for general line w.e.f. 1.12.1992. The applicant vide his letter dated 18.1.1993 (Ann.R2) requested time to consult and think over it and submit the same before 28.2.1993. Thereafter, he submitted his option on 27.2.1993, copy annexed by applicant himself as Ann.A8.

3. Respondents have filed a reply stating that the applicant had given the option letter within the period prescribed and had, therefore, opted to remain in the Accounts line, foregoing the general line in the process. He was, therefore, not entitled to the benefits of the OTBP and BCR schemes.

4. We have heard the learned counsel for the parties and have also perused the records. During the hearing, the learned counsel for the applicant vehemently argued that since the option letter dated 27.2.1993 (Ann.A8) was countersigned by Superintendent of Post Offices, Bharatpur Division, Bharatpur on

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1.3.1993, the option letter needs to be considered invalid in view of the last date being 28.2.1993. The applicant had first, vide his letter dated 18.1.1993 (Ann.R1) requested that he be given time upto 28.2.1993 to consult and think over it" and then gave the option in completely unambiguous terms signed on 27.2.1993 (Ann.A8). This being the case, countersigning by somebody later on cannot make any difference. The applicant having given an option on 27.2.1993 cannot now in January, 95 (when he filed the OA) go back on the option letter he has submitted. We, therefore, regret that we are not able to accept the contention of the learned counsel for the applicant that the option letter should be considered as having been given after expiry date and, therefore, it should be taken as the applicant having given no option at all and as a consequence, not having opted for Accounts line and, therefore, entitled to the benefit of OTBP and BCR schemes available to employees in the general line. The learned counsel for the applicant also drew our attention to Government of India, Department of Posts letter No. 93-18/99-SPB.II dated 23.12.1999 reproduced under Item No. 77 in Swamysnews of March 2000 but we find that it is of no help to the applicant since it is applicable on those POs and RMS Accountants "who had not opted defunct scale". In the present case, the applicant had opted to remain in the defunct scale in the Accounts line.

5. The learned counsel for the applicant also submitted that the applicant was promoted to Lower Selection Grade in the scale of Rs. 1400-2300 and posted as Asstt. Post Master (Accounts) Kota vide order dated 21.9.1988 but for personal reasons had to forego it. He could have been debarred for only one year but the respondents have not promoted him at all thereafter inspite of his having represented on 1.2.1992. He suggested that if the applicant is not being given the benefit of OTBP/BCR, the respondents may be asked to at least consider the applicant for the promotion to the post of Assistant Postmaster (Accounts) for which the applicant was debarred for one year. The learned counsel for the respondents has strongly opposed this in view of the fact that the applicant has, in effect opted out of the general line and cannot be given the benefits of OTBP/BCR schemes and at the same time, the applicant having opted for the defunct scale in the Accounts line no promotion could have been given. It has also been mentioned that

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any such request will be hopelessly time barred and the applicant has also, in the meantime, retired on superannuation. We have given our anxious consideration to the rival contentions in this regard and find no justification for accepting the submissions made by the learned counsel for the applicant at this stage.

5. In the result, the OA fails as having no merit and is accordingly dismissed with no order as to costs.


(N.P. NAWANI)

Adm. Member


(S.K. AGARWAL)

Judl. Member