

In the Central Administrative Tribunal
Jaipur Bench : Jaipur

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Date of Order : 27.04.2001

Original Application No. 107/95

Vasudeo Mansukhani S/o Thakurdas aged about 49 years
R/o House No. 169 B, Ward No. 22, Darbar Press, Diggi
Chowk, Ajmer and working as L.S.G. Sorter R.M.S. 'J'
Division, Ajmer.

..... Applicant.

Versus

1. Union of India through the Secretary to the
Government of India, Department of Posts,
Ministry of Communications, New Delhi 110 001.
2. Chief Postmaster General, Rajasthan Circle,
Jaipur 302 007.
3. Director Postal Services, Rajasthan Eastern
Region, Ajmer 305 001.
4. Director Postal Services, Jaipur Region, Jaipur-
Pin 302007.
5. Superintendent of R.M.S., 'J' Division,
Ajmer 305 001.

..... Respondents.

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

Mr. Hawa Singh, Advocate brief holder for
Mr. V.S.Gurjar, Counsel for the respondents.

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C O R A M :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. S.K.AGRAWAL, ADMINISTRATIVE MEMBER

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O R D E R

(Per Hon'ble Mr.A.K.Misra, J.M.)

The Applicant had filed this Original Application

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with the prayer that the impugned orders Annex. A/1 dated 10.3.1993, Annex. A/2 dated 29.10.1993 and Annex. A/3 dated 6.2.1995, be quashed and the respondents be directed to promote the applicant in the higher scale Grade-II w.e.f. 3.1.1992 as he had completed 26 years of service.

2. Notice of this Original Application was given to the respondents who had filed their reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. The applicant was appointed as Sorting Assistant w.e.f. 3.1.1956 and was promoted to the lower selection grade w.e.f. 30.11.1983. The applicant completed 26 years of service on 3.1.1992. The Department of Posts and Telegraph introduced a Biennial Cadre Review Scheme (for short 'the Scheme'), for the second time from 1.10.1991 and the officials who had completed 26 years of satisfactory service, were to be given higher grade in higher selection grade-II. The applicant was denied the higher pay scale on the ground that a penalty of with-holding of one increment for three years was ~~still~~ current at the time of consideration and, therefore, the applicant is not entitled to the benefit of the Scheme. It is also found from the record that the service of the applicant was not found satisfactory by the respondents.

5. It is contended by the applicant that for a minor lapse, he was served with a major penalty charge-sheet in the year 1983 which remained pending for pretty long time and the applicant was punished. The appeal of

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the applicant in that respect was accepted and the order of punishment was modified vide order dated 13.10.1992 and only one grade increment was stopped. Therefore, the applicant should have been considered for benefit under the said Scheme on 1.1.1994.

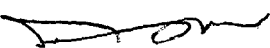
6. We have considered the facts of the case. The applicant is claiming benefit under the Scheme which lays down a criteria for promotion, 'eligibility of 26 years of satisfactory service'. It also lays down that the benefit of the Scheme could be given to a candidate from the specific date subject to his otherwise being found fit. In the instant case, the applicant was punished with stoppage of one next grade increment for three years vide the appellate order dated 13.10.1992. The increment fell due on 1.1.1993 and, therefore, the currency of penalty will remain up to 1.1.1996. The date of increment is un-disputed because in the order of the disciplinary authority, the date of implementation of the penalty imposed by the disciplinary authority has been noted as w.e.f. 1.1.1992. Therefore, the penalty of stoppage of one next grade increment would be made applicable from 1.1.1993 i.e. when, after the order of the appellate authority the increment of the applicant fell due. This is undisputed that during the currency of punishment promotion is not accorded. The applicant was suffering a penalty on the date of consideration in the year 1994 as was intimated to him vide order Annex. A/2. From the Annex. A/3, we find that on completing of 26 years of service the case of the applicant was also considered during the period 1.7.1992 to 31.12.1993 by the Departmental Promotion Committee (DPC) but he was not found fit due to his un-satisfactory record of service. From the communication of the respon-

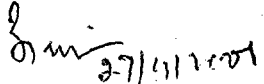
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dents it appears that applicant was not found fit on consideration of his record and was also under-going a penalty of stoppage of one grade increment during the said period. In view of this, we do not find any fault in not granting the next higher grade under the Scheme by the department. The applicant has challenged the order of the respondents relating to his consideration up to 31.12.1993 when he was suffering the penalty. The period of the penalty came to an end only on 1.1.1996 and, therefore, it is hoped that he must have been considered for grant of promotional scale. thereafter/But, so far as the period in question is concerned during which the applicant was suffering a penalty of stoppage of one grade increment, he could not have been granted the higher scale, therefore, he was rightly not found fit to be given the higher scale. Vide DGP&T's letter No. 20/41/66/DISC dated 14.4.1997, it has been clarified that 'whereas an order of penalty purports to with-hold the next increment for a specific period it implies that all the increments falling due during that period would be with-held because without getting the next increment an officer cannot get increments falling after the next increment' (FRSR, 11th edition of 1992 at Page 96). In view of this clarification also, the contention of the respondents that applicant was under-going the penalty period, cannot be found to be wrong.

7. In our opinion, the Original Application filed by the applicant, bears no merit and deserves to be dismissed.

8. The Original Application is, therefore, dismissed. However, there is no order as to costs.


(S.K. AGRAWAL)
Adm. Member


(A.K. MISRA)
Judl. Member

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