

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 224/04

~~Shivpuri~~, this the 16th day of March, 2005

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Kaushal Kishore Mishra
S/o Shri Ramdayal Mishra
Head Post Office – Shivpuri
Dist. Shivpuri (MP)

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India through
Ministry of Communication
Department of Posts
Sanchar Bhawan
New Delhi.

2. The Director General
Postal Services
Dak Bhawan
New Delhi.

3. The Chief Post Master General
MP Circle
Hoshangabad Road
Bhopal.

4. The Post Master General
Indore Region
Indore.

Respondents.

(By advocate Shri S.A.Dharmadhikari)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following main
reliefs:



- (i) Set aside the order dated 28.2.03 (Annexure A1) and the order dated 14.9.2001 (Annexure A2) to the extent it deprives the applicant to get the benefit of OTBP Scheme w.e.f. 1.3.2000.
- (ii) Direct the respondents to provide the benefit of OTBP Scheme to the applicant w.e.f. 1.3.2000 with all consequential benefits.

2. The brief facts of the case are that the applicant who was initially appointed as Postal Assistant on 1.3.84 completed 16 years of service on 1.3.2000. In view of the TBOP Scheme of the respondent department, the applicant was entitled to get up-gradation after completion of 16 years of regular service. However, the applicant was not given the benefit from the due date i.e. from 1.3.2000. Respondent No.6 issued a charge sheet under Rule 16 of CCS (CCA) Rules, 1965 on 15.11.99 (Annexure A3). The applicant preferred a representation against the charge sheet. The representation was not considered and the punishment of withholding of one increment without cumulative effect was imposed for six months vide order dated 3.3.2000 (Annexure A4). The case of the applicant was considered by the DPC in 1999 for up gradation under OTBP Scheme when there was no punishment imposed against the applicant. When the applicant was not given the benefit, he preferred a representation to the higher authority (Annexure A5). Thereafter, respondent No.6 issued an order dated 14.9.2001 (Annexure A) whereby the applicant was given the benefit under OTBP Scheme w.e.f. 1.9.2001. This order clearly indicated that the DPC had recommended in 1999 to provide the OTBP benefit to the applicant. Since the DPC had already recommended the name of the applicant, the same benefit should have been given to him from his due date i.e. 1.3.2000 because on 1.3.2000 there was no punishment against the applicant. The punishment was imposed on 3.3.2000. After receiving the order dated 14.9.2001 the applicant further preferred a representation on 9.10.001 (Annexure A6) but it was rejected by the respondents on 28.2.2003 (Annexure A1). Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that initially the applicant was appointed as Postal Assistant



on 1.3.84. After completion of service, he was entitled for OTBP benefit from the due date i.e. 1.3.2000. The DPC held in the year 1999 did not consider the name of the applicant. Therefore, this benefit should have been given to him from 1.3.2000 because on that date there was no punishment against the applicant while the respondents have given this benefit to the applicant vide order dated 14.9.01 (Annexure A2) w.e.f. 1.9.2001. The alleged charge sheet was issued to the applicant after the meeting of the DPC. Though the applicant preferred a representation, it was not considered by the respondents. Hence the applicant is entitled for the reliefs claimed.

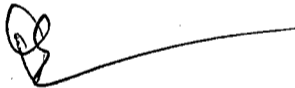
4. In reply, it is argued on behalf of the respondents that the applicant entered into the Postal Department as Postal Assistant on 5.3.84. On completion of 16 years of service, his case was due for OTBP benefit on 9.3.2000. The DPC recommended grant of OTBP to the applicant w.e.f. 9.3.2000. Though the applicant had completed 16 years of service as on 4.3.2000, a disciplinary proceedings under Rule 16 of the CCS (CCA) Rules was against him w.e.f. 15.11.99, which could be finalized only on 3.3.2000 with a penalty of withholding of one increment for a period of 6 months. Thus the applicant was undergoing punishment on the date on which he completed the prescribed period of 16 years. The punishment was over on 31.8.01 and he has been rightly awarded financial up gradation under OTBP w.e.f. 1.9.01 as per rules. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the date of initial appointment of the applicant as Postal Assistant in the department of the respondents, as alleged by the respondents, is 5.3.84 while it is controverted by the applicant by filing a rejoinder in which he has denied that he had completed 16 years of service due for the purpose of TBOP promotion on 9.3.2000. the correct date is 1.3.2000 and the benefit of TBOP should have been extended in favour of the applicant on the said date.

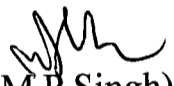


Admittedly, the DPC which met on 15.6.99 had considered the case of the applicant and recommended his case. At that time there was no charge sheet against the applicant. The respondents have themselves mentioned in their return that the disciplinary proceedings under Rule 16 of the CCS(CCA) Rules was initiated against the applicant w.e.f. 15.11.99, i.e. after about 5 ^{months} of the DPC meeting while the DPC had already considered the name of the applicant for the said benefit.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the applicant is legally entitled for the reliefs claimed. The orders passed by the respondents dated 14.9.2001 (Annexure A2) and 28.2.03 (Annexure A1) are quashed and set aside to the extent these orders deprive the applicant to get the benefit of OTBSP Scheme w.e.f. 1.3.2000. The OA is allowed. The respondents are directed to consider the claim of the applicant strictly in accordance with rules. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

aa.

पुस्तक सं जो/व्या.....जबलपुर, दि.....

पतिलिपि अंगीकृत -

- (1) सचिव, उच्च न्यायालय नगर, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के कार्यालय
(3) पर्ययी श्री/श्रीमती/कु.....के कार्यालय
(4) अध्यक्ष, को.प्र.अ., जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

24.3.05
उप सचिव

S. Paul OA JPR
S.A. Sharma Shikhar
OA JB

Issued
On 24.03.05
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