

Central Administrative Tribunal
Jabalpur Bench

OA No.424/04

Indore, this the 17th day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Raja Ram Shrivastava
S/o Late V.P.Shrivastava
Assistant Post Master, S.B.I
Jabalpur Head Post Office
R/o 12, New Jagdamba Colony
Cherital Ward
Behind Krish Upaj Mandi
Jabalpur.

Applicant

(By advocate Shri V.Tripathi)

Versus

1. Union of India through
Ministry of Communication
Department of Posts
Sanchar Bhawan
New Delhi.
2. The Chief Postmaster General
MP Circle
Hoshangabad Road
Bhopal.
3. The Senior Superintendent of Post offices
Jabalpur Division
Jabalpur.
4. Shri K.P.Rangari (Retd.Postmaster)
Higher Selection Grade-I
Postal Department
R/o Hathial Colony
Jabalpur
5. Shri M.C.Shrivastava
Higher Selection Grade-I
Postal Department
Near Hanuman Temple



Bilhari
Distt. Jabalpur.

Respondents

(By advocate Shri S.P.Singh)

ORDER

By Madan Mohan, Judicial Member

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

- (i) Declare that the action of the department in not promoting the applicant as HS Grade I after one year of foregoing the promotion is bad in law; direct the respondents to give promotion to the applicant as HS Grade I after one year from foregoing the promotion with all consequential benefits.

Alternatively

- (ii) Upon holding that the action of the respondents in not promoting the applicant on the post of HS Gr.I with effect from 22.1.2004 along with his colleagues is bad in law and set aside the same; direct the respondents to consider and promote the applicant as HS Gr.I with effect from 22.1.04 with all consequential benefits.

2. The brief facts of the case are that the applicant is working as Assistant Post Master under respondents 2 & 3. He was promoted as H.S.Grade-I vide order dated 22.1.04. Because of some domestic problems, the applicant declined the promotion. Apart from the applicant, certain others also declined promotion. As per the procedure, an employee who foregoes promotion is kept out of promotion for one year and after one year the promotion is released. Vide order-dated 22.1.2004 the persons who declined promotion along with the applicant were promoted but the applicant was denied the same. However, later vide order-dated 28.1.2004 the applicant was promoted as HS Gr.II in the pay scale of Rs.5000-8000, instead of HS Gr.I, which carries pay scale of Rs.6500-10500. The criteria for promotion for HS.Gr.II & I are seniority cum fitness. The representation of the applicant was rejected vide order dated 16.3.2004 on the ground that the DPC did not find the applicant fit for



promotion. Private respondents are much junior to the applicant. The applicant has filed this OA feeling aggrieved by the rejection of his last representation vide order dated 29.3.04.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant who was promoted vide order dated 5.2.2002 as HS Gr.I had to forego his promotion because of unavoidable domestic reasons. In all fairness, the department should have released his promotion after one year. Other colleagues of the applicants, who had declined promotion were promoted after one year. There was no justification in not promoting the applicant. The action of the department in promoting the applicant to an inferior post of HS Gr.I is bad in law. There were no adverse remarks in the CR of the applicant during the relevant period. Hence the impugned action of the department is bad in law and violative of Articles 14 & 16 of the Constitution of India.

4. In reply, learned counsel for the respondents argued that the applicant had declined his promotion and the department had accepted it by memo dated 18.4.2002. The Directorate vide letter dated 12.1.2002 laid down the procedure for giving promotion to the cadre of HS.Gr.I in the absence of eligible officials of H.S.Gr.II (norm based). Accordingly the applicant was promoted notionally to the cadre of LS grade i.e. 1.7.97 and subsequently to H.S.Gr.II i.e. 1.7.2000 by duly recommended DPC. He retired on superannuation on 30.4.2004. His name was also considered by the DPC for promotion to HS.Gr.I but was not recommended.

5. After hearing the learned counsel for both parties and perusing the records, we find that the applicant was considered for promotion as H.S.Gr.I but due to family problems at the relevant time, he was not in a position to accept it. When similarly placed people were promoted, the applicant was not promoted. According to rules, the applicant should have been promoted automatically on the post of HS.I but the respondents did not promote him and later he was promoted to an inferior post of HS.Gr.II vide order dated 28.1.2004,



which carries a less pay scale. On the other hand, the respondents contend that the name of the applicant was included in the eligibility list for consideration of promotion on the post of H.S.Gr.I by the DPC, which was held on 15.12.2003. But the DPC did not find the applicant fit for promotion to the post of HS.Gr.I. We have perused the original records i.e. the minutes of the DPC held on 15.12.03 in which the name of the applicant is mentioned at S.No.8 amongst the officials who were eligible for promotion as H.S.Gr.I considered by the DPC and in the proforma information for DPC as HS.Gr.I. The applicant has earned ~~2~~ good ACRs out of 5 and 3 average for the year 2001-2002. His increment for a period of 6 months was withheld vide order dated 23rd April 2001. The DPC consisted of S/Shri Neeraj Kumar (Chairman), R.S.Chauhan (Member-I) and C.Ahirwal (Member-II). Both the members found the applicant unfit and the Chairman has rejected the promotion of the applicant as H.S Gr.I.

6. After perusal of the aforesaid original records submitted on behalf of the respondents, it is apparently clear that the action of the respondents is perfectly legal and justified. Hence this OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

पृष्ठांकन सं. ओ/न्या. जयलपुर, दि.
सतिस्तिपि अन्वये धिया :-

- (1) सविद्य, उच्च न्यायालय एवं हाईकोर्ट, जयलपुर
- (2) आदेशक श्री/जी.पी. के आदेशक
- (3) प्रत्यक्षी श्री/जी.पी. के आदेशक
- (4) कार्यपाल, जयलपुर, जयलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

उप-निर्देश

V. K. Singh AN 03/04
S.P. Singh AN 03/04

Issued
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