

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 595 of 2002

Indore this the 21st day of July, 2004

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

Govind Prasad Kashyap
S/o Late Dwarka Prasad,
Aged about 58 years,
East Belagh Ward,
House No.3-C, Ghampur Chowk,
Infront of Mohan Building,
Jabalpur (MP)

APPLICANT

(By Advocate - Shri V.Tripathi on behalf of Shri S.Paul)

VERSUS

1. Union of India
through its Secretary
Ministry of Communications,
Dept. of Post,
Dak Bhawan,
Sansad Marg,
New Delhi.
2. The Member-(P)
Postal Services Board,
Dept. of Post,
Dak Bhawan,
Sansad Marg,
New Delhi.
3. The Director,
Postal Services,
Raipur Region,
Raipur (Chhattisgarh).
4. The Senior Superintendent of
Post Office, Jabalpur Division
Jabalpur (MP).

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By M.P. Singh, Vice Chairman -

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

"(ii) Set aside the order dated 22nd August, 2001 Annexure A-1 and order dated 8.3.2000 Annexure A-2.

(iii) Consequently command the respondents to treat the applicant as promoted as HSG-II w.e.f. 17.6.95 or in alternatively from 1.12.1995 with all consequential benefits.

(iv) Consequently direct the respondents to refund the amount of Rs.8398/- recovered from the applicant along with interest on delayed payment".

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2. The brief facts of the case are that the applicant was working as Sub Post Master, Shobhapur, Jabalpur. He was issued a memo under Rule 16 of the CCS (CCA) Rules, 1965 for his misconduct. He submitted his representation on 2.5.1995. The disciplinary authority i.e. the Sr. Superintendent of Post Offices, Jabalpur Division, Jabalpur vide his order dated 1.6.1995 (Annexure-A-3) imposed the penalty of withholding of his next increment for a period of six months without cumulative effect. The applicant did not prefer any appeal against the said punishment and the same has attained its finality.

2.1 The applicant was due for his promotion in Higher Selection Grade-II (for short 'HSG-II') under the Biennial cadre Review (for short 'BCR') on completion of 26 years of service. The DPC after considering the case of the applicant, found him fit for promotion as HSG-II w.e.f. 18.6.1995. The applicant was also due for grant of annual increment from 1.6.1995. He was earlier granted the promotion in HSG-II after six months i.e. after the currency of the aforesaid punishment of withholding of increment for a period of six months. However, the audit party had objected the aforesaid promotion, by saying that the promotion was to be implemented w.e.f. 1.6.1996. The audit party has observed that the punishment order dated 1.6.1995 has not been properly implemented and directed that the punishment order dated 1.6.1995 should come into operation w.e.f. 1.6.1996. Accordingly, the applicant was promoted w.e.f. 1.12.1996, as a consequence thereof, an amount of Rs. 8398/- has been recovered from the applicant. Aggrieved by this, the applicant has filed this OA, claiming the afore-mentioned reliefs.

3. Heard both the learned counsel of parties.

4. The learned counsel for the applicant has stated that a the minor penalty of withholding of increment for six months was imposed on 1.6.1995 and the applicant was also due for grant of increment w.e.f. 1.6.1995, therefore, the penalty should have

commenced from 1.6.1995. The learned counsel has, therefore, submitted that the applicant was earlier rightly promoted by the respondents and the action taken by the respondents, consequence to the audit objection, by promoting him w.e.f. 1.12.1996 amounts to double jeopardy. The learned counsel has further submitted that the action taken by the respondents is not according to rules and is required to be quashed.

5. On the other hand the learned counsel for the respondents has submitted that the penalty of withholding of next increment for six months was imposed on the applicant and as per the audit objection, the next increment fell due only on 1.6.1996 and, therefore, the penalty should commence from 1st June 1996 for a period of six months.

6. We have given careful consideration to the arguments advanced on behalf of both the learned counsel.

7. The undisputed facts of the case are that the penalty of withholding of next increment for a period of six months had been imposed on the applicant on 1.6.1995. His date of increment is also on that day. Therefore, the question of consideration is whether the penalty of withholding of increment for six months should commence from 1st June 1995 or 1st June 1996.

7.1 We are of the considered view that the penalty of withholding of increment should commence from 1st June, 1995 and should end on 30.11.1995. The applicant can be promoted from 1st December, 1995. If the contention of the learned counsel for the respondents is accepted then the currency of the punishment will start after one year and will continue thereafter for six months. The applicant has been recommended by the selection committee for promotion from 18.6.1995. If the logic given by the audit party and the department is accepted then the punishment will commence from 1st June 1996. In that case the applicant should be given promotion from 18.6.1995 as at that point of time he cannot be treated to be undergoing any punishment. In any case,

as observed above, we are of the considered opinion that the currency of the punishment will start from 1.6.1995 and should end on 30.11.1995.

8. In the result, the OA is allowed. The respondents are directed to grant the promotion to the applicant with effect from 1.12.1995, as granted earlier, and he should be granted all consequential benefits. The amount which has been recovered by the respondents from the applicant should be refunded back to him within one month. We also impose a cost of Rs.5000/- (Rs.Five thousand only) on the respondents payable to the applicant, as the applicant has been unnecessarily forced to approach this Tribunal for redressing his grievance.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि अर्चे छित:-

- (1) सचिव, उच्च व्यायालय बार एसोसिएशन, जबलपुर
(2) अधिकारी श्री/श्रीमती/वडु.....के काउंसल D. Land
(3) प्रत्यर्थी श्री/श्रीमती/वडु.....के काउंसल S. & Dhorawadikar
(4) कंशलल, देहात, जबलपुर न्यायपीठ
सूचना एवं आदर्शक कार्यदाही हेतु

DKB
5-8-04
प्राप्त उप रजिस्ट्रर

Issued
on 5-8-04
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