

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 792 of 2002

Jabalpur, this the 29th day of July, 2004

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

S.R. Rai, aged about 60 years,
S/o. late Shri Daya Ram Rai,
Sub Post Master (Retd.),
R/o. 91, BHEL Nagar,
Distt. Bhopal.

... Applicant

(By Advocate - Shri V.K. Jain)

V e r s u s

1. Union of India,
through Principal Secretary,
Ministry of Postal services,
Sanchar Bhawan,
New Delhi.
2. Director General of Post Offices,
New Delhi.
3. Chief Postmaster General, M Circle,
Near Maida Mill, Hoshangabad Road,
Bhopal.
4. Senior Supdt. of Post Office,
Bhopal Division, Bhopal.
5. Smt. Shail Shukla,
aged about 56 years, W/o. not known,
Asstt. Post Master, CTT Nagar HO
Distt. Bhopal.

... Respondents

(By Advocate - Shri S.P. Singh)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

"(2) the impugned order No. B-2-206/HSG-I Cadre/2001 dated 23.1.2002 Bhopal passed by Senior Supdt of Post Offices, Bhopal Dn (Annexure A/1) be quashed.

(2A) to issue appropriate writ/order expunging adverse remark in CR for the year ending March 2001. The Hon'ble Tribunal may kindly further issue writ/order directing the respondent for upgrading of average remark in the CR year ending March 2001 (Annexure A/7)

(3) the applicant be directed to be promoted to the



next higher post Higher Selection Grade-I with all benefits from retrospective date when he had become entitled to be so promoted i.e. from the date on which his immediate junior was promoted along with all arrears of payment due etc. and he assigned the seniority above the immediate junior i.e. who has been promoted by impugned order dated 23.1.2002 (Annexure A/1)

2. The brief facts of the case are that the applicant entered the service as Postal Assistant in the year 1954 with the respondents. He was promoted as Sub Postmaster in the year 1983. The next promotion due is the post of Postmaster or to the higher Selection grade-I. The basis of promotion to the next higher post is seniority cum merit. Since the applicant has completed 26 years of service, he is entitled for higher selection grade in the year 1990-91. However, the applicant was not granted the higher selection grade-I. In the seniority list published on 31.3.2001 the applicant was placed at Sl. No. 21. The Chief Post Master General, M.P. Circle promoted as many as 11 persons vide order dated 22.1.2002. Out of the 11 persons promoted, as many as 7 persons are juniors to the applicant who belongs to Bhopal division and are of general category, except P.W. Sonkusre who belongs to ST category. The respondent No. 5 and others who are juniors to the applicant have been promoted and the applicant was superseded by them. Against this impugned order the applicant made representation to the Chief Post Master General, M.P. Bhopal. The respondents again granted promotion to another 5 junior employees than the applicant which are similarly situated and at par in the same cadre and in the same scale. The respondents while rejecting the representation of the applicant mentioned that three penalties were imposed on the applicant during the period under consideration i.e. 96-97 to 2001-2002. During the period under consideration the only communication made to the applicant regarding adverse entry in his CR is vide letter dated with

the remark "Lack of devotion and integrity". The applicant retired from Government service on 31.7.2002. The applicant further submitted that the adverse entry appears to be result and of prejudice, malafide intention of the respondents which is manifested from the record. The adverse entry made in the applicant's CR were made with oblique motives to deprive the applicant of his legitimate right of promotion to higher selection grade-I. The representation made by the applicant against those entries were mechanically dealt with, without application of mind. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.
4. The learned counsel for the applicant argued that the respondents without any justifying grounds has promoted so many junior persons than the applicant. When the applicant made representation it was rejected and further again the respondents promoted 5 more junior persons than the applicant. Again the applicant made representation which was also rejected by the respondents. The version of the respondents that 3 penalties were imposed on the applicant within the stipulated period of 5 years i.e. from 1996 to 2002 is not correct. The adverse remark given by the respondents is without any basis and with malafide intention-
5. In reply the learned counsel for the respondents argued that the service carrier of the applicant was non-blemished and he was awarded by several punishment during his service tenure. The respondents further argued that the DPC was held on 4.1.2002 in the office of the CPMG, MP Circle, Bhopal for considering the name of the eligible

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official for promotion to the HSG-I cadre. The name of the applicant was also included in the panel for consideration of the promotion to the next higher post and the DPC also considered the name of the applicant for promotion to the next higher post but he was not found fit by the DPC, hence his name was not recommended for promotion to the next higher post i.e. HSG-I cadre due to unsatisfactory record. When the applicant made his representation to the competent authority against his supersession, the competent authority considered the representation on each and every aspect and did not find any reasons for interference, therefore, rejected the same vide order dated 26.2.2002. Again on 13.6.2002 the DPC was held and again the name of the applicant was considered, but the applicant was not found fit, therefore, his name was not recommended for promotion to the HSG-I cadre. This time when the applicant made his representation, it was rejected observing that three penalties were imposed on the official during the period from 1997-98 to 2001-2002 and performance was rated as average. Hence, the respondents have rightly rejected the claim of the applicant. The respondents drawn our attention towards Annexure A-7, dated 11.6.2001, by which the applicant was informed that he should take special efforts during the current year and in the following year to overcome alleged shortcomings. But the applicant did not care for it.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that during the said period of five years the applicant was awarded three penalties and his performance was rated as average. When the DPC met on 4.1.2002, the name of the applicant was considered but he was not found fit by the DPC. Hence, his name was not recommended for promotion to the higher post.

Subsequently, on 13.6.2002 when the DPC again was held, the name of the applicant was considered but again he was not found fit by the DPC for recommending his name for promotion to the higher post. We have perused Annexure A-6, memo dated 28th August, 2002, wherein it is mentioned that the applicant's case for promotion to higher post was considered and was not recommended, after taking into consideration the service record of the applicant and other relevant aspects of his case. Mere denial of the applicant that no penalties were imposed by the respondents during the said period of 5 years is baseless and it cannot be accepted in presence of memo dated 28.8.2002 (Annexure A-6). We have also perused the letter dated 11.6.2001 (Annexure A-7), which is addressed to the applicant and in which it is mentioned that while the applicant has earned a good report during the year 2000-01, complimentary remarks have to be made against six items. These were brought to his notice in order that he should make special efforts during the current year and in the following years to overcome these shortcomings. It is hoped that his work in future will be in such manner^{so} as to remove the effect of these entries. In this letter uncomplimentary remarks is made for lack of devotion and integrity. Further in this letter it is also mentioned that the applicant was punished with stoppage of one increment for one year and it was modified by DPS (HQ) for six months vide memo dated 30.4.01. Hence, we find that the respondents have duly informed the applicant about his shortcomings and he was also directed to make special efforts^{to} overcome these shortcomings.

7. Thus, we are of the considered opinion^{that} the orders passed by the respondents does not need any interference by the Tribunal and the Original Application is liable to be dismissed as having no merits. Accordingly, the



Original Application is dismissed. There shall be no order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अच्छे लिखतः—

- (1) सदिक, उच्च व्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/क्षु.के वडांसल M.C. Jain
- (3) एत्यर्थी श्री/श्रीमती/क्षु.के वडांसल SP Singh
- (4) व्यायाल, कोपां, जबलपुर व्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु *AKD*

स्व रजिस्ट्रर B-54

Issued
On 9-8-04
By BS