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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

S.A. NO. 915/2000

L.P. Ingle, aged about 60 years,
S/o. late Shri P.G. Ingle, Retired
Postal Assistant, Higher Selection
Grade II, R/o. House No. 55, Bedekar
Colony, B.T. College Road, Anand
Nagar, Khandwa (MP) 450 001.

... Applicant

Verdict

1. Union of India, through the Secretary, Ministry of Communications, Department of Posts, Government of India, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, M.P. Circle, Bhopal, M/Q Bhopal (MP) 462 001.
3. Director Postal Service, Indore Zone, Indore (MP) 452 001.
4. Superintendent of Post Office, Khandwa Division, Khandwa (MP) 450 001.

... Respondents

Counsel :

Shri S. Nagu for the applicant.
Shri P. Shankaran for the respondents.

Court :

Hon'ble Shri Justice N.N. Singh - Vice Chairman.
Hon'ble Shri Sarveshwar Jha - Member (Admnv.).

O R D E R

(Passed on this the 27th day of January 2003)

By Sarveshwar Jha, Member (Admnv.) :-

Heard.

The applicant has approached this Tribunal with prayers to quash the order of the respondents dated the 22nd September 1998 (Annexure A-2) to the extent that it grants promotion to the applicant in the scale of pay of Rs. 4500-7000 with effect from 01/07/1998. A prayer has also been made by the applicant that the respondents be directed

to consider and grant him higher scale of pay of Rs. 4500-7000 with effect from 1984-85. The other prayers made by the applicant have been explained in detail in paragraph 8 of this application.

25. The facts of the matter, briefly, are that the applicant, who has retired from the service of the respondents with effect from 30/06/2000, was initially appointed in the Department of Posts on substantive basis on 16/02/1964 and became eligible for one time bound promotion on completion of 16 years of service vide the letter of the respondents dated the 17th December 1983, which ^{he} completed in the year 1980. In terms of the scheme of the respondents he became due to be placed in the higher scale of pay under the time bound promotion scheme with effect from 30/11/1983. As the respondents did not give him the said promotion, the applicant approached this Tribunal through OA No. 279/1989 which was decided by the Tribunal on 24/01/1991 vide their orders placed at Annexure A-1. The Tribunal directed the respondents to convene a review DPC to consider the applicant for one time bound promotion on the basis of his service records as it stood on 30/11/1983 in the light of the Government of India's decision referred to in para 6 of the said orders and also the observations made by the Tribunal in the said orders. As is observed in para 6 of the said orders, it refers to the 'Government of India's Memorandum, Department of Personnel and Administrative Reforms No. M/5/70-Estt(A), dated the 15th May, 1971 laying down that the fact of imposition of punishment or withholding increment does not by itself debar the Government servant from being considered for promotion. The overall assessment of the service record considering the circumstances of each case is needed for judging the applicant's suitability for such

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(a)

promotion. However a promotion may not be given effect to during the pendency of a current penalty as has been made clear in the Government of India's decision No. 22011/2/78/ Estt(A), dated the 16th February, 1979'. On perusal of the application it is further observed that penalties were imposed on the applicant from time to time from the year 1964 to the year 1982. The applicant has admitted that after 1984 the applicant was not under the shadow of penalty and therefore should have been awarded the benefit of higher pay scale (4500-7000)(revised) under the one time bound promotion scheme. He is therefore aggrieved by the fact that the promotion awarded to him under the said scheme took effect ^{from} 01/07/1998.

2.1. The applicant has made reference to Biennial Cadre Review Promotion (BCR) scheme which was introduced with effect from 01/10/1991 or from any prospective date with effect from which an employee completes 26 years of service. The applicant has therefore claimed that he was entitled to be placed in the next higher grade under this scheme with effect from 01/10/1991. The applicant is therefore aggrieved by the impugned order of the respondents dated the 5th March 2000 (Annexure A-3) placing him in the higher scale of pay of Rs. 5000-8000 with effect from 01/01/1999. It is therefore observed that while the applicant has already been granted the promotions which are provided for under the schemes mentioned above, from certain dates, his grievance is that these dates need to be antedated to take effect from the dates he completed the requisite numbers of years of service or the dates ^{which} were provided for in these schemes.

3. On perusal of the reply submitted by the respon-

dent it is, however, observed that while the respondents have admitted the fact that the applicant completed 16 years of his service on 30/11/1983, he could not be granted the first time bound promotion, as provided for under the relevant scheme from the said date for the reason that disciplinary proceedings had been pending against him during the said period. He was, however, considered by the DPC for the said promotion. It was only in July 1998 that the DPC found him fit for promotion under the said scheme and accordingly he was given promotion to the higher grade with effect from 01/07/1998. The respondents, therefore, have maintained that the second promotion under the BCR scheme, as claimed by the applicant, could not have been given to him prior to this date. They have also given the details of the penalties which had been imposed on the applicant in different years of his service. The respondents have also submitted in paragraph 9 of their reply that the applicant committed an act of hindrance on the 23rd August, 1985 and that the adhoc disciplinary authority Senior Superintendent of Post Offices, Hoshangabad had to issue a charge sheet on him on the 3rd September, 1991. This led to reduction of the pay of the applicant to Rs. 4900/- from Rs. 5200/- in his scale of pay on 01/05/1998 for 2 months without any cumulative effect vide the orders of the Senior Superintendent of Post Offices, Hoshangabad, dated the 28th April 1998. On account of the charge sheet served on him in the said case disciplinary proceedings remained pending against the applicant from 23/08/1985 to 30/06/1998. It is thus observed that the respondents have admitted that the applicant was eligible for the promotions that he had sought under the time bound promotion scheme as well as BCR scheme, he could not be granted the same on the due dates only for the reasons that disciplinary proceedings and resultant penalties were in operation against the applicant during the

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relevant periods and that finally promotions were granted to him as admissible under the rules.

4. Thus, we find that the applicant has been granted promotions due to him under the time bound promotion scheme as well as the BCR scheme as per the rules and keeping in view the fact that he was not undergoing any penalty during the period in question. Seeking antedating of these promotions during a period when disciplinary proceedings were lying against him and also penalties were operating against him is not an appropriate claim and is not supported by the schemes referred to by the applicant and also the relevant rules and instructions on the subject. We are of the view that performance of an employee has to be seen in continuum within a reasonable and relevant period and not in pieces of short periods. Under these circumstances and the facts of the matter submitted by the applicant as well as the respondents, we are not inclined to allow this application, as we do not find any merit in the case of the applicant.

5. With this, this Original Application stands disposed of as dismissed being devoid of any merit, with no order as to cost.

Signature

(SARWESHWAR JHA)
MEMBER (A)

Signature

(N.N. SINGH)
VICE CHAIRMAN

शृंखला से ओ/ज्ञा.....
प्रतिविधि दाते हिते..... जलपुर, दि.....
(1) सोला, उत्तर प्रदेश, भारत, जलपुर
(2) सोला, उत्तर प्रदेश, भारत, जलपुर
"SA" (3) सोला, उत्तर प्रदेश, भारत, जलपुर
(4) सोला, उत्तर प्रदेश, भारत, जलपुर
सूचना द्वारा दिया गया वार्ता से निर्माण
कर्ता का नाम नहीं दिया गया है।

S. Nagar, 19.03.03
D. Shankaran, Adi
J. Nagpal, Adi
28/1/03

Issued
On 29.3.03
Cm 29.3.03

Signature
उप सचिव
28/1/03