

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 29th day October, 2010

ORIGINAL APPLICATION No.235/2006

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMINISTRATIVE)

N.L.Khandelwal
s/o Late Shri Ram Niwas Khandelwal,
r/o Plot no.1346-B, Barkat Nagar,
Tonk Phatak, Jaipur
and at present working as
Assistant Post Master (Accounts),
Jaipur G.P.O. Jaipur

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through its Secretary, Govt. of India,
Department of Posts,
Ministry of Communications and Information Technology,
Dak Bhawan,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Jaipur
3. Director, Postal Services,
Jaipur Region,
Jaipur

.. Respondents

(By Advocate: Shri Hemant Mathur)



ORDER

The applicant has filed this OA thereby praying for the following reliefs.

- (i) That entire record relating to the case be called for and after perusing the same respondents may be directed to allow the promotion to the applicant into the cadre of H.S.G.I in the scale of Rs. 6500-10,500 from the date junior so allowed by quashing letter dated 9.8.2005 (Annexure-A/1) with all consequential benefits.
- (ii) Any other order/directions of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- (iii) That the costs of this application may be awarded."

2. Briefly stated, facts of the case are that the applicant, who was promoted on the post of HSG-II (norm based) notionally w.e.f. 23.11.2001 was entitled to consideration for promotion to the post of HSG-I after completion of 3 years' service. The applicant completed 3 years of service on 23.11.2004 and name of the applicant was considered by the DPC held on 17.12.2004, but the DPC had kept the recommendation regarding his promotion in the sealed cover due to pendency of the disciplinary proceedings initiated against the applicant under Rule 16 of the CCS (CCA) Rules, 1965. The disciplinary proceedings against the applicant ended with penalty of recovery. Consequently, after finalization of the disciplinary case against the applicant, the sealed cover was to be opened and as per recommendations of the DPC, the applicant was entitled to the due promotion with reference to promotion of his junior Shri

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I.M.Gupta, in case he is completely exonerated. As such, the applicant was not given promotion and reason for not giving promotion was communicated by the Senior Superintendent of Post Offices, Jaipur City Division, Jaipur vide letter dated 26.7.2005. The reasoning so given was communicated to the applicant vide separate letter dated 9.1.2005 (Ann.A/1). It is this order which is under challenge before this Tribunal and on the basis of these facts the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The facts as stated above, have not been disputed by the respondents. The respondents have stated that since penalty of recovery of the amount is one of the minor penalties mentioned in the rules, as such, the applicant is not entitled to promotion in terms of Para 17-6-1 and 17-6-2 guidelines issued vide DO P&T OM No. 22011/5/86-Estt. (D) dated 10.4.1989 and amended OM No.2201/5/91 (D) dated 27.3.1997.

4. The applicant has filed rejoinder. Along with rejoinder, the applicant has also placed order dated 26.9.2006 (Ann.A/13) whereby case of the applicant was again considered for promotion in the year 2006 but he was found unfit for promotion to HSG-I cadre as his benchmark was not 'Good' which was the condition precedent for granting promotion to the post of HSG-I being a selection post.

5. The respondents have also filed additional affidavit to the rejoinder filed by the applicant whereby this fact has been

admitted and it has been stated that although name of the applicant was within the zone of consideration for the post of HSG-I and was put up before the DPC held on 6.9.2006 but the DPC did not recommend his name for promotion to HSG-I and the same was communicated to the applicant vide Ann.A/13.

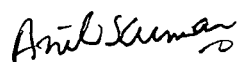
6. We have heard the learned counsel for the parties and gone through the material placed on record. So far rejection of applicant's claim for promotion to HSG-I cadre as communicated vide letter dated 26.9.2006 (Ann.A/13) is not subject matter of challenge in this OA, no findings on this aspect is required to be given.

7. The learned counsel for the applicant argued that penalty of recovery so imposed by the respondents which formed basis for passing the impugned order Ann.A/1 was subject matter of challenge in OA No.268/06 decided on 25th February, 2009 vide the penalty was set aside and the case was remitted to the disciplinary authority for re-adjudication after taking into account fresh submissions of the charges officer on being supplied the relevant documents. It is further brought to our notice that the Union of India has filed DB Civil Writ Petition No.1424/2010. The said Writ Petition along with other connected matters have been disposed by the Hon'ble High Court vide order dated 9th August, 2010, whereby the Writ Petition filed by the Union of India has been dismissed and direction were given to expedite the departmental proceedings within a period of six months from the date of judgment.



8. In view of the subsequent development, we are of the view that the only order which deserves to be passed in this case is that the recommendations made by the DPC which were kept in sealed cover shall be subject of the outcome of the enquiry to be concluded by the respondents. In case the applicant is completely exonerated, he shall be extended the benefit of promotion as per recommendations made by the DPC held on 17.12.2004.

9. With these observations, the OA is disposed of with no order as to costs.



(ANIL KUMAR)
Admv. Member



(M.L. CHAUHAN)
Judl. Member

R/