

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO.612/2013

Reserved on 04.05.2016
Pronounced on 09.05.2016

**HON'BLE SHRI P.K. BASU, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)**

1. Mukhtyar Singh,
Ex. Postman, R.K. Puram
(M) Post office
R/o H.No. C-220, Kurat Mohala
Mata Chowk, Chhawala,
New Delhi-110071.
2. Dharam Pal,
Ex. Postman, Chanakyapuri
Post Office,
New Delhi
R/o House No.551,
Village Devli,
New Delhi-110065.
3. Sant Ram,
Ex. Postman,
Village & P.O. Bharthal
New Delhi-110077.
4. Randhir Singh,
Ex. Postman
Vasant Vihar P.O.
S/o Hukam Singh
R/o House No.20,
Village & P.O. Dhakla
Distt. Jhajjar, Haryana. ...Applicants

(By Advocate: Ms. M. Sarda)

VERSUS

1. Union of India through
The Secretary,
Ministry of Communications & IT,
Dak Bhawan,

New Delhi-110001.

2. Sr. Supdt. of Post Offices,
New Delhi South West Divn.,
New Delhi-110021. ...Respondents

(By Advocate: Mrs. Anupama Bansal)

:ORDER:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

The four applicants in the instant OA, who had joined the Postal Department as Group 'D' employees and who later qualified LDCE to become Postmen, claim that they be granted third financial upgradation under the MACP Scheme on completion of 30 years' service as Postmen. They all have retired from service. Their representations were rejected, vide the impugned orders, stating that they were already granted two financial upgradations under TBOP and BCR Schemes and a promotion as Postman.

2. The applicants contend that their aforesaid selection as Postmen cannot be called promotion and in this context they rely on the Order dated 22.05.2002 passed by the Jodhpur Bench of this Tribunal in OAs Nos.382/2011, 353/2011 and 354/2011 (Annexure P-2), which has also been affirmed by the Hon'ble Rajasthan High Court in D.B. CWP Nos.11336/2012 etc., vide its Order dated 10.08.2015.

3. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

4. About the aforesaid contention of the applicants, the Tribunal's observations in the Jodhpur OAs are:

"It is obvious that appointment from the civil post of EDA to a regular Government employment as Group-D is a fresh appointment, and that has not been disputed by the respondents either. Thereafter when, as Group-D employees, these three applicants faced a process of selection, and were appointed as Postmen, such selection cannot be called a promotion, as it was not done in the course of natural progression through seniority. Any advancement in career which is based on a process of selection especially undertaken for that purpose cannot be called as a promotion. A promotion has to be in higher category in the same cadre, or service, or through a prescribed avenue of promotion, but without an element of a process of selection, through tests or examination etc."

5. The Hon'ble Rajasthan High Court in the aforesaid writ petitions observed:

"Having considered the argument advanced we do not find any merit with the same. Learned counsel appearing on behalf of the appellant on asking again and again failed to point out any provision for promotion to the post of postman/Sorting Assistant. On the other hand, from perusal of the orders of appointment to the post of Postal Assistant/ Sorting Assistant, it is apparent that the respondent original applicants faced an examination, may that be a limited competitive examination i.e. nothing but direct recruitment. Their joining as Postal Assistants was not at all in the nature of promotion, hence their services for the grant of benefits under modified assured career progression has to be counted only from the date they were appointed as Postal Assistants/Sorting Assistants. The services rendered by them on earlier post prior to their appointment as Postal Assistant/Sorting Assistants are absolutely inconsequential for the purpose of grant of modified assured career progression. At the cost of repetition it shall be appropriate to mention that the petitioners failed to point out any provision for appointment to the post of Postal Assistant/Sorting Assistant by way of promotion and to point out any order of appointment making appointment of the original applicants on the post concerned by way of promotion".

6. In the light of the above, we are of the view that this OA deserves to succeed. The applicants are held entitled to grant of third financial upgradation under the MACPS w.e.f. the respective due dates. The respondents shall within two months from the date of receipt of a copy of this Order pay to the applicants the arrears due along with interest on it at the rate of interest on GPF. The impugned orders are set aside.

7. The OA is accordingly allowed. No order as to costs.

(Dr B.A. Agrawal)
Member (J)

(P.K. Basu)
Member (A)

/jk/