

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00440/2015

Dated this Friday, the 10th day of August, 2018.

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

E.K. Shahabudeen,
 Aged about 60 years, S/o. Ebrahim Kutty,
 Mail Guard, Railway Mail Service 'TV' Division,
 Sub Record Office, Quilon – 691 001,
 Permanent Address: Mannanvathukkal, Vadakkevila P.O.,
 Quilon – 691 010. **Applicant**

(By Advocate : Mr. T.C.G. Swamy)

V e r s u s

- 1 Union of India,
 Represented by the Secretary to the Government of India,
 & The Director General of Posts, Department of Posts,
 Ministry of Communications & Information Technology,,
 Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General,
 Kerala Circle, Thiruvananthapuram – 695 033.
- 3 The Sr. Superintendent, Railway Mail Service,
 'TV' Division, Trivandrum – 695 036.
- 4 The Director of Postal Service (HQ),
 Office of the Chief Postmaster General,
 Kerala Circle, Thiruvananthapuram – 695 033.
- 5 The Sub Record Officer (HSG-I),
 RMS 'TV' Division, Tiruvalla – 689 101. **Respondents**

(By Advocate : Mr. Anil Ravi, ACGSC)

This application having been heard and Reserved for orders on 06.08.2018,
 the Tribunal on 10.08.2018 delivered the following:

ORDER

Per: Ashish Kalia, Judicial Member:

The applicant prayed for the following reliefs:

- (i). Call for the records leading to the issue of A1 and quash the same;
- (ii). Declare that the applicant is entitled to be regularized with effect from the date of regularization of the applicant's juniors in A7, particularly SI. No. 7 Shri. K. Muraleedharan and below and direct the respondents to grant the applicant all the consequential benefits arising therefrom, including the benefit of monthly pension and other retirement benefits, as provided for in CCS (Pension) Rules, 1972;
- (iii). Award costs and incidental thereto;
- (iv). Pass such other orders or directions as deemed just and fit by this Hon'ble Tribunal.

2. Brief facts of the case are that the applicant was appointed as GDS on 12.2.1984. The services were regularised as Group 'D' Mail Man with effect from 27.05.2005. Subsequently a corrigendum was issued and his date of confirmation is made as 21.5.2007 vide Annexure A.2 order issued by 4th respondent condoning his entire break in service period and granted continuity in service with effect from 12.2.1984. He has been paid severance amount of Rs.20,000/- vide Annexure A.3 dated 13.6.2007. Applicant has made Annexure A8 representation to 3rd respondent that he should be given promotion as has been given to one K. Muraleedharan who was placed below him in the erstwhile Seniority List. The Annexure A8 representation was rejected by the department vide Annexure A.1 letter which is being challenged in this O.A. Feeling aggrieved by this, he has approached this Tribunal.

3. Notices were issued to the respondents and they filed Memo of appearance and file the detailed reply resisting the claim of the applicant.

4. It is submitted on behalf of the respondents that applicant was placed at Sr. No. 16 in the Seniority List of ED Mailman as on 31.12.1995. However, the applicant's case was not considered for promotion as Mailman in the Departmental Screening Committee ('DSC' for short) convened in the year 2000 for consideration of eligible G.D.S due to break in service for 47 days during the period from 16.10.1996 to 31.12.1996 in various spells. As the applicant had continuous service only with effect from 1.1.2007 he had become junior to his original juniors. Accordingly his juniors were promoted as Mail Man with effect from 10.10.2000.

5. The break in service was imposed on the applicant on 24.2.2004 for absenting himself from duty. In the meanwhile the applicant submitted representation to the competent authority on 29.11.2005 by seeking condonation of break in service as the applicant was not granted benefit of severance amount in the GDS cadre as he has not completed 15 years continuous service in the GDS cadre due to existence of break in his GDS service. The break in service was condoned and he has been paid the aforesaid amount.

6. The order for condoning the break in service imposed on him was for the limited purpose of making him eligible for severance amount. The applicant has filed O.A.No. 755/2007 to declare that the appointment of Shri K.Sasi, the 6th respondent in the said O.A. as illegal and direct the respondents to appoint the applicant as Group D with effect from 04.10.2001, the date on which the said Shri K. Sasi was appointed. The O.A. was dismissed vide its detailed order in on 65^h February 2009.

7. The Annexures A.6 and A.7 representations submitted by the

applicant to 3rd respondent for advancement of his date of confirmation w.e.f. 29.5.1997 and grant him consequential benefits were rejected vide Annexure A.1 letter.

8. We have heard the learned counsel appearing for the parties and perused the pleadings and considered the rival submissions.

9. The controversy revolves around in the present O.A. lies in a narrow campus. The applicant's request for regularisation with effect from the date of regularisation of his junior K.Muraleedharan and grant of all consequential benefits cannot be considered for the reason that the applicant has been considered by the department for the post of Mail Guard only in the year 2015 when his juniors have already been promoted with effect from 2000 because of the break in service of 47 days.

10. On his request the department has sympathetically considered his request for condoning the break in service for the limited purpose of granting him severance allowance so that his fifteen years service as GDS will be completed and he will get the severance allowance and the applicant has already filed one O.A. bearing No. 755/2007 which was dismissed by this Tribunal on 5.2.2009. Now the applicant came up before this Tribunal similar relief which cannot be granted. The department has already considered his case favourably and he has been promoted with effect from 2007.

11. Thus, we are convinced that no case is made out in favour of the applicant viz-a-viz his juniors as claimed in the Original Application by the applicant.

12. Thus, we are in full agreement with the contention of the respondents

that the applicant was not promoted for the reason of break in service, had it not been there, the applicant could have been considered by the department for promotion with effect from 10.10.2010 or subsequent dates. Even otherwise the issue has already been adjudicated upon once before this Tribunal and it cannot be re-agitated as has been done in the present O.A.

13. Thus, from the conspectus of the facts and circumstances of the case, we find no merit in the present O.A. It is dismissed accordingly. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

sj*

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APPLICANT'S ANNEXURES

- Annexure A1** – True copy of Letter bearing No. B.II/Genl/MGs dated 24.11.2014, issued by the 3rd Respondent.
- Annexure A2** – True copy of order bearing No. ST/120/8/BIS/2006 (Pt) dated 21.05.2007, issued by the 4th Respondent.
- Annexure A3** – True copy of Memo bearing No. B-11/1-MM/SA dated 13.06.2007, issued by the 3rd Respondent.
- Annexure A4** – True copy of order bearing No. 227/SRO/CONFR-MM/08 dated 16.12.2008, issued by the 5th Respondent.
- Annexure A5** – True copy of Corrigendum bearing No. 284/SRO/CONFR-MM/08 dated 14.02.2009, issued by the 5th Respondent.
- Annexure A6** – True copy of detailed representation dated 15.10.2014 addressed to the 3rd Respondent.
- Annexure A7** – True copy of order bearing No. BII/II-3/2000 dated 10.10.2000, issued from the office of the 3rd Respondent.
- Annexure A8** – True copy of representation dated 11.03.2015 addressed to the 3rd Respondent.

RESPONDENTS' ANNEXURES

- Annexure R1**– True copy of Lr No. 292/SRO/CONFR/08 dated 18.02.2009.
- Annexure R2**– True copy of representation dated 29.11.2005.
- Annexure R3**– True copy of representation dated 11.03.2015.

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