

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00344/2018

Monday, this the 28th day of May, 2018.

CORAM:

HON'BLE Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Philip Antony,
S/o. M.P. Antony,
Senior Accountant, O/o. DAP, Kerala Circle,
Trivandrum.
T.C. 10/1800(3), KRWA 242 J,
Kuthirakadu Lane, Manchadi Moodu,
Vattiyoorkkavu (P.O), Trivandrum – 695 013. - Applicant

[By Advocate Mr. Sunil Jacob Jose]

Versus

1. The Union of India represented by
 Senior Deputy Director General,
 (Postal Accounts & Finance),
 Department of Posts (PA Wing),
 Dak Bhawan, New Delhi – 110 001.

2. The Director of Accounts (Postal),
 Kerala Circle, Trivandrum – 695 001. - Respondents

[By Advocate : Mr. N. Anilkumar, Senior PCGC]

The application having been heard on 23.05.2018, the Tribunal on 28.05.2018 delivered the following:

ORDER

Per: Bharat Bhushan, Administrative Member

O.A No. 344 of 2018 is filed by Shri Philip Antony, Senior Accountant, O/o. DAP, Kerala Circle, Trivandrum against alleged denial of Local Officiating Promotion to Assistant Accounts Officer (AAO) Cadre. A circular dated 05.06.2017 (Annexure A-1) had been issued by the 2nd respondent calling for employees to submit their willingness for considering their names for Local Officiating Promotion to AAO Cadre

on temporary/officiating/ad-hoc basis. The applicant submitted his willingness on 01.11.2017 onwards and conveyed the same as per endorsement in the same Annexure A-1 document. No action was taken by the respondents on promoting him, whereas two of his juniors Shri P.G. Muraleedharan Nair and Shri T.R. Saji were accorded promotion by order dated 27.12.2017 (Annexure A-2). The promotion granted is against regular vacancy in the cadre for a period of 180 days or till their date of retirement or the posting of a regular AAO to the Circle, whichever is earlier. At the time of issuance of Annexure A-2, the willingness for promotion had been expressed by the applicant and had become operative and there is no reason why his claims came to be overlooked in favour of his juniors. The applicant submitted a representation to respondent No.2 on 11.01.2018 (Annexure A-3) enclosing an extract of the gradation list. However, the 2nd respondent did not act on his request, while at the same time, issuing another office order dated 05.04.2018, whereby 11 officials, including the 2 juniors of the applicant were promoted as AAOs with effect from 02.04.2018 (Annexure A-4).

2. As grounds, the applicant submits that he is being discriminated against his juniors who have stolen a march over him by securing officiating promotion. Denial of the said benefit amounts to infringing on his individual rights.

3. The respondents have filed reply statement, wherein they have added a different perspective to the issue. It is stated that circulars had

been issued in 2015 and 2016 as well as in 2017, the list of which is at Annexure A-1 calling for willingness for consideration for Local Officiating Promotion. The applicant had expressed his unwillingness to the first circular and did not respond to the 2nd in 2016. In so far as the 3rd circular at Annexure A-1 is concerned, he put a conditional willingness stating that he will be ready to be promoted with effect from 01.11.2017. It is further stated that no officiating promotion had been effected after 26.02.2017. Annexures A-2 and A-4 are merely extensions of earlier promotions which had the condition that they were only for a period of 180 days and were to be followed by reversion. So, the inequity as claimed by the applicant has happened due to his own refusal or unwillingness to agree to the ad-hoc promotions until 01.11.2017 by which time no new officiating promotion was being offered.

4. It is further stated that he had his own reasons such as full utilisation of the Productivity Linked Bonus Scheme in delaying his date of willingness till 01.11.2017. Also as he is drawing pay at Pay Matrix Level 9, no financial benefits would accrue to him even if he is granted officiating promotion to the cadre of AAO. Now, specifically the communication of respondent No.1 at Annexure A-1 dated 02.04.2018 states as follows:-

“ It is stated that no new local arrangement may be made in the cadre of AAO, under any circumstances.”

5. Mr. Sunil Jacob Jose arguing on behalf of the applicant pointed out that the applicant is due to retire on superannuation on 31.05.2018 which is only a few days from today. He submits that if he is allowed a

promotion, he can at least have the consolation of acquiring the designation of AAO as compared to Senior Accountant. Mr. N. Anilkumar, Senior PCGC submitted that any positive decision would require approval of respondent No.1 necessitated under respondent No. 1 communication.

6. It is seen that the difficulties that the applicant is fulminating against have been of his own creation. He did not express his willingness to accept Local Officiating Promotion until 01.11.2017 by which time the respondents had stopped all new promotions. What he points out as fresh promotions are only renewals of promotions already accorded. He is believed to have chosen 01.11.2017 to express his willingness in order to maximise his benefits under the Productivity Bonus Scheme. Now he finds himself caught out by the communication referred to at Annexure R-1. Clearly, this is a case of one who has been hoist by his own petard.

7. Keeping in view the fact that he is at the fag end of his service, retiring on superannuation in a few days time, we direct the respondent No. 2 to consider his case as sympathetically as possible and issue a well considered order in line with the extant rules. O.A stands disposed of. No order as to costs.

(Dated, 28th May, 2018.)

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

Applicant's Annexures

- Annexure A1 - Photocopy of the circular Tr. No. 443/Admn.I/E.I/C-10 B/2017-2018 dated 05.06.2017 of the 2nd respondent.
- Annexure A2 - Photocopy of the Office Order No. 202/Admn. I/E.C/C010B/Vol-vi/2016-17 dated 27.12.2017 of the 2nd respondent.
- Annexure A3 - Photocopy of representation dated 11.01.2018 along with the relevant page of the gradation list, submitted before the 2nd respondent.
- Annexure A4 - Photocopy of the Office Order No. 213/Admn.I/E.I/C-10B/Vol-vi/2018-19 of the 2nd respondent dated 05.04.2018.

Annexures of Respondents

- Annexure R1 - True copy of the letter dated 02.04.2018.
