

**Central Administrative Tribunal
Madras Bench**

OA/310/00884/2018

Dated the 4th Octoberber Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr.R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member(J)**

K.V.Venkatachalam
Retd. Asst. Postmaster,
5/530, Postal Colony,
Phase-II, Perur Chettipalayam,
Perur, Coimbatore 641010. .. Applicant
By **Applicant-in-person**

Vs.

Union of India, rep by
The Chief Post Master General,
Tamilnadu Circle,
Chennai 600 002. .. Respondent

ORDER

Pronounced by Hon'ble Mr.P.Madhavan, Member(J)

This is an application filed by the applicant herein seeking the following relief(s):-

“to modify the date of promotion in LSG from 04.10.2001 to 11.12.1981 by 1/3rd quota of RR 1976;

to modify the date of promotion in HSG.II from 16.5.2007 to 11.12.1989 (after 8 years in LSG) as done by Chief PMG Odisha;

to modify the date of promotion in HSG.I cadre from 16.6.2007 to 11.12.1992 (after 3 years in HSG-II) as done by Chief PMG Odisha;

to draw difference of pay for promotion in HSG-I from 16.6.2007 to 30.4.2008; and

to pass such other order or directions as are necessary to meet the end of justice.”

2. This is the third OA filed by the applicant seeking to modify the date of promotion in Lower Selection Grade(LSG) from 04.10.2001 granted to him from 04.10.2001 to 11.12.81 taking 1/3rd quota and to modify the promotion in Higher Selection Grade II(HSG-II) from 16.5.2007 to 11.12.89 and to modify the date of promotion of HSG I from 16.6.2007 to 11.12.1992. According to the applicant, some of the similarly selected applicants had filed applications before this Tribunal claiming for 1/3rd quota of LSG which were allowed by this Tribunal holding that persons who passed the qualifying examination held in 1978 and 1981 were entitled

to 1/3rd quota of LSG and they should be promoted. Thereafter, the applicants including the applicant herein were promoted to LSG on 23.8.2007 on the basis of seniority. The applicant herein filed OA 892/2007 before this Tribunal seeking a direction to promote him to the post of HSG-I from the year 2002-2003 on the basis of the decision in OA 528/2007 filed by one Murugaiah. This application was allowed by the Tribunal and directed the department to consider the applicant for promotion on notional basis w.e.f. the date of promotion of his junior in the circle gradation list . On 30.4.2008 before the order could be implemented, applicant retired from service. The Writ Petitions filed by the department was dismissed by the Madras High Court. The SLP 34211/2010 filed was also dismissed by the Hon'ble Apex Court on 10.10.2011. So the order passed in OA 892/2007 became final and the order in OA 892/2007 was implemented and the applicant was given notional promotion to LSG cadre w.e.f. 04.10.2001 and to HSG-II cadre II w.e.f. 16.5.2007 and adhoc promotion to HSG I w.e.f. 16.6.2007. The terminal benefits were also calculated and given.

3. Thereafter, the applicant seems to have filed OA 135/2012 before this Tribunal which was dismissed by order dated 23.1.2013. The applicant filed a RA No.49/2013 and it was also dismissed. Against the said order the applicant filed a WP No.22839/2014 and the said WP was dismissed making the following observations:-

“15. In any case the petitioner is guilty of huge delay and laches. When persons like him approached the court way back in 1994-95, the petitioner simply sat on the wall and watched the proceedings. Today his claim is for giving him retrospective promotion from 1981 to the post of LSG and from 1991 to the post of HSG. He did not raise a little finger when he was denied promotion at that time. Therefore, the claim is highly belated.

16. Moreover, the petitioner approached the Tribunal for the first time in OA No.892 of 2007 comparing him with one M.Murugaiah. The Tribunal granted the relief and the same was also confirmed by this Court and the Supreme Court. It is not the case of the petitioner that the order in OA No.892 of 2007 has not been properly given effect to. Therefore, to take up one more issue in the year 2012 by filing OA No.135 of 2012, without raising such a claim in the previous application in OA No.892 of 2007, will be squarely hit by the principles analogous to res judicata.

17. In any case the petitioner is unable to point out who are the juniors, who have got promotion to the LSG from 1981 and to HSG from 1991. The petitioner has retired on 30.4.2008. His application seeking retrospective promotion from 1981 was filed in the year 2012. Therefore, the rejection of his claim by the Tribunal is perfectly in order and the same does not call for any interference. Hence, the writ petition is dismissed. No costs.”

4. On a perusal of the relief claimed in this OA, it can be seen that it is substantially the same ie. To refix the date of promotion of LSG to 11.12.81, HSG.II to 11.12.89 and promotion to HSG I to 11.12.92. It seems that the applicant had filed this OA to bye-pass the earlier order of dismissal in OA 135/2012 and confirmed by the Hon'ble High Court referred earlier. The applicant ought to have raised the issue in his OA 892/2007 which has become final now. In view of the finding of the Hon'ble Madras High Court in WP 22839/2014, this OA cannot be entertained and is liable to be dismissed at that threshold itself. OA is dismissed. No costs.

(P.Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

04.10.2018

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