

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/539/2012

Jabalpur, this Wednesday, the 25th day of July, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Dilip Kumar Patel, S/o Shri Ram Siya Patel, aged about 38 years,
R/o Postal Colony, Head Post Office Campus, Rewa (M.P.)
418601
-Applicant

(By Advocate – Shri Vijay Tripathi)

V e r s u s

1. Union of India through its Secretary, Ministry of Communication & IT, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Director General, Postal Services, Dak Bhawan, Sansad Marg, New Delhi – 110001.
3. Chief Post Master General, M.P. Circle, Hoshangabad Road, Bhopal – 462012 (M.P.).
4. Superintendent of Post Offices, Rewa Division, Rewa – 418601 (M.P.)
- Respondents

(By Advocate – Shri A.P. Khare)

(Date of reserving order : 24.04.2018)

O R D E R

By Ramesh Singh Thakur, JM.

The applicant is aggrieved by order dated 03.05.2012 (Annexure A-1), whereby his candidature for the post of Postmaster Grade-I, has been cancelled.

2. The applicant has sought for the following reliefs:

- “8(i) Summon the entire relevant record from the respondents for its kind perusal;
- (ii) Set aside the letter No.STA/35-1/PM-1/11 dated 23.4.2012;
- (iii) Set aside the order dated 3.5.2012 Annexure-A/1.
- (iv) Direct the respondents to appoint the applicant as Post Master Grade I from the date other selected candidates were appointed with all consequential benefits;
- (v) Any other order/orders, direction/directions may also be passed.
- (vi) Award cost of the litigation to the applicant.”

3. The applicant was appointed as Postal Assistant on 16.12.1995 and posted at Head Office, Satna. He was served with a chargesheet, under Rule 16 of the CCS (CCA) Rules, 1965 on 03.05.2010 (Annexure A-2), while working as Postal Assistant in the office of respondent No.4. The applicant replied to the same. However, vide order dated 28.10.2010 (Annexure A-3), the punishment of recovery of Rs.16,844/- has been imposed on the applicant.

4. The applicant submits that in pursuance of a notification dated 13.04.2011 for appearing in Limited Departmental Competitive Examination (LDCE) for promotion to the cadre of Postmaster Grade-I, the applicant submitted his candidature on 20.04.2011. The applicant successfully participated in the

examination, result of which, was declared on 30.06.2011 (Annexure A-6), wherein name of the applicant finds place at Sr. No.9 in the list of selected candidates. However, vide order dated 03.05.2012 (Annexure A-1), candidature of the applicant has been cancelled on the ground that he was provisionally permitted to appear in the said examination, and therefore, cannot be promoted to the Postmaster Grade-I cadre.

5. The respondents, in their reply, have stated that the applicant was provisionally recommended by the respondent No.4 for appearing in the LDCE, as he was under punishment of recovery imposed vide order dated 28.10.2010. The respondents have further submitted that the Government of India, Ministry of Communications & IT, Department of Posts, vide notification dated 07.03.2011 (Annexure R-1). have issued the Revised Syllabus in respect of Post Master Grade-I for filing up the vacancies by promotion through LDCE, wherein at Serial No.7 of the syllabus, annexed with the notification, it has been directed to all the Chief Postmaster General that before recommending the application of the official for examination, it may be ensured that no disciplinary action is pending or contemplated against him. Since, the order of punishment was in force, when the applicant

was provisionally declared successful, therefore, considering the same, his candidature has been rejected.

6. We have heard the learned counsel for the parties and gone through the pleadings and documents available on record.

7. Learned counsel for the applicant argued that though the applicant was facing punishment at the relevant point of time, however, the minor penalty cannot be an impediment to promote him. In this regard, he placed emphasis on the instructions dated 19.05.1984, issued by the DoP&T, which reads as under:

“Promotion of an official can be given effect to during the currency of the punishment of monetary recovery. In this connection a reference is invited to the instructions issued by M.H.A in O.M. No.22011/1/68-Estt. (A_, dated 16.2.1979 stating inter alia that the punishments of censure, recovery pecuniary loss and stopping of increment do not constitute a bar to promotion of the an official provided, on the basis of overall assessment of his record of service, the Departmental Promotion Committee recommends his promotion to the next higher post.”

(the extracts are quoted from Para 4.9 of the O.A)

8. It is an admitted fact that the applicant was declared successful in the examination for the post of Postmaster Grade-I, as per the result declared on 30.06.2011 (Annexure A-6). However, the candidature of the applicant has been cancelled on the ground

that he was provisionally permitted to appear in the LDCE. On perusal of Annexure A-5 Admit Card issued to the applicant, it is seen that the candidature of the applicant was provisional and subject to certain conditions. The same reads as under:

“4. Your candidature for this test is provisional and is subject to your fulfilling the prescribed educational and other eligibility conditions etc., as per department rules failing which your candidature will be summarily rejected at the further stages of verification and scrutiny during the selection process.”

Thus, it cannot be denied that the applicant was provisionally permitted to appear in the LDCE, which was subject to fulfilling the departmental norms before effecting the promotion to Postmaster Grade-I.

9. It is not in dispute that the punishment of recovery imposed on the applicant vide order dated 28.10.2010, was in existence when he applied for the LDCE; till the result of the examination declared on 30.06.2011. Thus, merely the fact regarding his provisional selection for the post of Postman Grade-I, cannot be said to be basis for appointment on the aforesaid post, as the currency of punishment imposed on the applicant was very much in vogue at that time. It is also undisputed that the applicant has

accepted the order of punishment and has never challenged the same before any of the authority at any point of time.

10. We may also note that it is not the case of normal promotion, where DPC is convened to assess the record of service of the individuals and on the basis of which promotion is made. It is a case of selection through LDCE, where the persons are to be promoted on the basis of the marks obtained in the said examination subject to fulfilling the norms and eligibility criteria prescribed by the department. Thus, the instructions dated 19.05.1984 of the DoP&T, relied upon by the applicant, has no relevance to the facts and circumstances of the present case.

11. In the result, the O.A is dismissed being devoid of merit. No costs.

**(Ramesh Singh Thakur)
Judicial Member**

**(Navin Tandon)
Administrative Member**

am/-