

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A. 350/00291/2017

Date of order: 23.3.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

Sri Sudeep Mondal,
PA & CO,
Son of Late Krishna Kanta Mondal,
Working as PA & CO,
Now working as Officiating IPO,
Office of the Post Master General,
North Bengal Region, Siliguri,
And Residing at Deshbandhu Park,
Near NTS More, P.O. – Siliguri Town,
Dist. : Darjeeling,
Pin Code : 734 004.

.. Applicant

- VERSUS -

1. Union of India through the
Secretary,
Ministry of Communication,
Dak Bhawan,
New Delhi – 110 001.
2. The Chief Post Master General,
West Bengal Circle,
Yogayog Bhawan,
Kolkata – 700 012.

.. Respondents

For the Applicant : Mr. N. Roy, Counsel

For the Respondents : Ms. P. Goswami, Counsel

ORDER (Oral)

Heard Mr. N. Roy, Ld. Counsel for the applicant and Ms. P. Goswami,
Ld. Counsel for the respondents.

2. This Original Application has been filed under Section 19 of the
Administrative Tribunal Act, 1985 challenging non-consideration of the

representation made by the applicant for re-allotment and joining IPO cadre, along with representations dated 16.3.2016 & 8.11.2016 and order dated 30.4.2013 passed by the Director (VP & DE) with the following reliefs:-

- "a. To issue direction upon the respondent to consider the representation dated 16.3.2016 and 8.11.2016 may be disposed of.
- b. To issue further direction upon the respondent to quash/cancel and/or set aside the order dated 8th January, 2013 forthwith.
- c. To issue further direction upon the respondent to give promotion to the applicant where the surplus candidate namely, Sri Manoj Kumar Thakur, Sri Sanjay Kumar, Sri Paramanand Kant and Sri Mithilesh Kumar have joined IPO cadre in Orissa Circle. The applicant is also a same similar circumstanced candidate may be considered IPO cadre, according to letter dated 2.8.2012 forthwith.
- d. Any other order or orders as the Learned Tribunal deem fit and proper.
- e. To produce connected departmental record at the time of hearing.
- f. To issue further direction upon the respondent to give promotion IPO cadre in any Circle & consequential seniority may be considered forthwith."

3. The facts of the case in a nut shell are that the applicant is aggrieved due to the fact that while working as Postal Assistant under West Bengal Circle he became eligible to sit for departmental promotion in due course. As per rule the vacancies that arise in a year are divided into two categories viz. direct recruitment and departmental promotion. The total number of vacancies available for direct recruitment and departmental promotion are calculated after deducting the candidates coming under Rule 38 i.e. for transfer request and surplus officials those who are qualified for in any earlier year but due to lack of vacancies in that particular year could not be accommodated and then the remaining vacancies are announced as the vacancies of a particular year and those notified vacancies are segregated as 33.34% for direct recruitment and 66.66% for departmental promotion. The instant applicant is a surplus candidate of 2009. He became successful

in the departmental examination but since in 2009 there was no sufficient vacancies under West Bengal Circle as indicated above to accommodate the applicant, he was allotted in another State according to the choice of State given by the applicant but before taking the next step named as "training and posting" the departmental authorities decided to take back those qualified candidates in the West Bengal Circle and accordingly they were allotted in West Bengal. The same procedure was followed in other States as the departmental examinations are held for the country as a whole. The department in accordance with law before declaring the vacancies of 2011 adjusted the surplus candidates of 2009. After this adjustment the vacancies of 2011 became nil and the candidates of 2011 who were junior to the applicant moved this Bench of Central Administrative Tribunal and obtained an order on 30.9.2011 in O.A. No. 845 of 2011 directing the department to hold departmental examination of 2011 and if the candidates became successful then to appoint them under 2011 vacancies. The department on the plea of the said order did not take any further steps namely giving "training and posting" to the applicant after re-allotting him in West Bengal Circle as surplus candidates of 2009. The applicant preferred several representations but all in vain and finally the department deleted the name of the applicant from surplus status challenging which and also for appointment in the promotional post anywhere in the country the instant petition has been filed. The applicant claims to be similarly situated with other candidates and the promotion in IPO cadre. He made representations but till date no response.

4. Mr. N. Roy, Ld. Counsel submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondents No. 2 to dispose of the

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representations dated 16.03.2016 within a specified time frame.

5. Therefore, without waiting for the reply I think it appropriate to dispose of this O.A. by directing the respondent No. 2 that if any such representation has been preferred on 16.03.2016 and is still pending consideration then the same may be considered and disposed of within a period of two months under communication to the applicant and if after such consideration, the applicant's grievance is found to be genuine, then expeditious steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.

6. Though I have not entered into the merits of the matter but the claim of the applicant regarding surplus employees may be considered in the light of Rule 38 of the relevant rules. Ms. P. Goswami, Ld. Counsel for the respondents submitted that on an earlier occasion some similarly situated candidates have approached this Bench of the Tribunal and after dismissal of their cases the same were carried to the Hon'ble High Court.

7. A copy of this order along with paper book be transmitted to the respondents No. 2 by speed post for which Mr. N.Roy undertakes to deposit necessary cost by Friday.

8. With the aforesaid observation and direction, the O.A. is disposed of.

(A.K. Patnaik)
Judicial Member

SP