

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00150/2018

DATED THIS THE 11TH DAY OF OCTOBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

Sunder Nagappa Naik,
Aged 67 years,
S/o Nagappa,
Retired sub Post Master, Belekere SO,
Under Karwar HO, residing at Mutta village,
Via Hadinbal – 581 361,
Honnavar Taluk

.....Applicant

(By Advocate Shri B. Venkateshan)

Vs.

1. The Union of India & others,
Represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001

2. The Postmaster General,
NK Region,
Dharwad – 580 001

3. The Superintendent of Post Offices,
Karwar Division,
Karwar – 581 301

....Respondents

(By Shri Dilip Kumar, ACGSC)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

This matter is covered by several judgments on both sides. But a crucial fact is overlooked in that. In the cases in which applicants have been allowed the benefits, promotion from GDS to Postman was an issue. A GDS employee is not in the regular stream whereas a Postman is in a regular stream. There is a fundamental difference between these two. The GDS is not actually an employee but in a sense a contractor to the department and therefore through certain special enactments benefit had been conferred on him to be selected as a Postman which is a Group-D post. At that point of time it was through a Limited Departmental Competitive Examination. Even though the scope of the examination was limited, while sitting at Jodhpur we had declared that this will not amount to a promotion in respect of consideration for MACP or ACP for the simple reason that the elements of these are of a selection than of a promotion. For a promotion to come into picture, the before and after must be for the single stream of governance system. Since the GDS is not in the governance system and is there only as a contractor, this will not lie.

2. Whereas other judgments also exist which point out that when a promotion is granted from Postman to that of a Postal Assistant, they being in the same stream, this promotion also will have to be calculated and adjusted against career enhancements compulsively granted on the Hon'ble Apex Court orders.

3. In this case, the applicant was appointed as a Postman in 1976. Thereafter through LDCE he was appointed on promotion as Postal Assistant on 09.08.1980. Thereafter in 1996 he was granted TBOP. In 2007 he had obtained BCR. Therefore his case is that, since counting from 09.08.1980, on 09.08.2010 he would have completed 30 years of service and thus eligible for the 3rd MACP.

4. He had ignored the promotion from Postman to Postal Assistant. Since that is also in the same stream of governance system, it will be considered as a promotion and therefore, since 3 elements of career enhancements had been granted to him already, he is not eligible for MACP at the end of 30 years of service. The OA thus fails.

5. The OA is dismissed. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00150/2018

Annexure A-1: Copy of the letter No. KWR/L-3217/RTI/SNN/2018 dated 17.01.2018

Annexure A-2: Copy of the applicant's Pension Payment Order

Annexure A-3: Copy of the Memo No. NKR/STA-2/287/06/BCR/Jan-07 dated 20.12.2006

Annexure A-4: Copy of the Memo No. KMT/AC2/Postal/Pension/SNN dated 07.02.2011

Annexure A-5: Copy of the Memo KWR/B-644/MACPS/Dlgs/2017-18 dated 12.02.2018

Annexure A-6: Copy of the order dated 27.11.2017 in O.A. No. 853/2016

Annexure A-7: Copy of the order dated 26.04.2017 in O.A. No. 579/2016

Annexure A-8: Copy of the judgment dated 04.02.2015 in Writ Petition No. 30629/2015

Annexure A-9: Copy of the judgment dated 16.08.2016 in SLP No. 4848/2016

Annexure A-10: Copy of the judgment dated 13.09.2017 in RA to SLP 4848/16

Annexures with reply statement:

Annexure R-1: Copy of the judgment of Hon'ble High Court at Dharwad in Writ Petition No. 102148/2018

Annexure R-2: Copy of the judgment of Hon'ble High Court of Karnataka in Writ Petition No. 56730/2017

Annexure R-3: Copy of the circular dated 21.09.2010

Annexure R-4: Copy of the Appendix 9 Rules of recruitment to the post of Time Scale Clerks and Sorters

Annexure R-5: Copy of the order of the Hon'ble High Court at New Delhi in Writ Petition No. 4131/2014

Annexure R-6: Copy of order of the Hon'ble High Court at New Delhi in Writ Petition No. 2806/2016

Annexure R-7: Copy of order in O.A. No. 1259/2014 dated 02.02.2016
