

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/745/2019

Date of Order: 21.08.2019

Between:

A. Ramasree, Group C
W/o A. Bhaskar Reddy, Aged 38 years
Occupation: Postal Assistant
SBCO, Khairatabad HO, Hyderabad – 500 004.
Telengana State.

.... Applicant

AND

1. Union of India, rep. by
The Secretary to the Govt of India
M/o Communications & IT, Dept of Post,
Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General
Telengana Circle
Hyderabad – 500 001.
3. The Postmaster General
Head Quarters Region
Hyderabad 500 001.
4. The General Manager
(Finance Postal)
Telengana Circle
Hyderabad – 500 001.
5. The Senior Superintendent of Post Offices
Hyderabad City Division
Hyderabad – 500 001.

... Respondents

Counsel for the Applicant ... Mr. B. Gurudas
Counsel for the Respondents ... Ms. M. Swarna, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. The OA is filed for not bringing the applicant under the purview of CCS (Pension) Rules, 1972.

3. Brief facts of the case are that the applicant was selected as Postal Assistant based on a competitive examination held for recruiting Postal Assistants in Savings Bank Control Organization in the year 2002. Applicant was appointed on 7.4.2004 with abnormal delay for which she is not responsible. As she was selected for the vacancies pertaining to the years 2001-2002, she is eligible for the benefits under CCS (Pension) Rules, 1972. Instead of applying these rules, the applicant was irregularly placed under National Pension Scheme (in short, NPS) effective from 01.01.2004. Applicant represented on 16.5.2019 (Annexure A-IV) stating the grounds on which she is to be brought under CCS (Pension) Rules, 1972. Till date, the said representation of the applicant has not been disposed and, therefore, the OA.

4. The contentions of the applicant are that she appeared in the competitive examination for the vacancies pertaining to years 2001 and 2002. There was abnormal delay in issuing appointment orders, for which she should not be held responsible. Though there were clear vacancies

available and the applicant was declared successfully in the examination held on 09.07.2001, yet the appointment orders were issued on 07.04.2004. When a similarly situated person filed OA No.951/2015, this Tribunal granted the relief sought and, therefore, her case is fully covered by the aforesaid Judgement.

5. An advance copy of the OA was received by the standing counsel, Ms. M. Swarna appearing on behalf of the respondents. However, the applicant's counsel stated that although he has prayed the relief, which is pertaining to the Division Bench, but the applicant would be satisfied if the Tribunal directs to dispose of her representation by the respondents.

6. Heard both the counsel and perused the pleadings on record.

7. (I) The applicant's grievance is that though she was selected, and allotted to Vijayawada Region, vide letter dated 17.09.2003 (Annexure A-1) as Postal Assistant, yet the respondents issuing the appointment order on 07.04.2004 is unfair. Due to the delay caused by the respondents in issuing the appointment order, she has been brought to NPS, which came into vogue on 01.01.2004. However, applicant has pointed out that in a similar case, in OA No.951/2015, this Tribunal has granted relief as under:

“13. In the present case, the Departmental Promotion examination for was notified on 02.04.2002. The examination was held on 30.06.2002. After a lapse of about four years, the results of the examination were announced on 28.03.2006. The applicant assumed charge of the post on 06.04.2006. They have been subsequently promoted in the month of July, 2010. The New Pension Scheme came into force on 01.01.2004. In the facts and circumstances of the present case, the decisions passed by CAT, Ernakulam Bench, as cited above are fully applicable to the facts and circumstances to the present case, relevant portion of which reads as under:

“8. The order in OA No.849 of 2010 and connected matters does support the case of the applicants. The only difference is that therein it relates to notional fixation of date of promotion for the purpose of working out the qualifying service for eligibility to appear in the competitive examination for the post of Postal Assistant etc. In the instant case the claim is for reckoning the period of qualifying service from the notional date of promotion for the purpose of eligibility to be governed under the CCS (Pension) Rules, no other benefit is likely to accrue as well. Their contribution towards contributory provident fund hitherto made shall be diverted to general provident fund and accumulated in that account.

9. In view of the above the OA is allowed. It is declared that the applicants are deemed to have been promoted from the date the vacancy arose and thus notional date of promotions only for the purpose of reckoning the qualifying service for pension under the CCS (Pension) Rules, 1972. The respondents are directed to pass suitable orders in this regard and make necessary entry in the service book of the applicants indicating clearly the date of notional promotion and the purposes of reckoning the same.

10. Further, the respondents shall collect necessary subscription under the provident fund rules during the rest of their services and stop any recovery to the contributory provident fund.

11. There shall be no order as to costs.”

This Tribunal is satisfied without any fault of the applicants, they could not be appointed earlier although the examination was conducted on 30.06.2002 in pursuance to the notification dated 02.04.2002. The Respondents cannot take advantage of their own mistake. Hence this Tribunal declares that the applicants are deemed to have been appointed as Postman with effect from 02.04.2002 and their pay be fixed notionally accordingly. The applicants are also entitled to notional promotion by taking into consideration the notional appointment as on 02.04.2002. They are entitled to consequential relief of fixation of pay at higher stage and also entitled to other allowances including annual increments.

14. Original Application is accordingly allowed. No order as to costs.”

(II) In view of the aforesaid, with the consent of the both the counsel, the respondents are directed to dispose of the representation of the applicant dated 16.05.2019 in regard to the relief sought, keeping in view the directions of the Tribunal in OA 951/2015, by issuing a speaking and well reasoned order, within a period of 8 weeks from the date of receipt of a copy of this order.

With the above directions, the OA is disposed of, with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 21st day of August, 2019

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