

(2022) 06 CAT CK 0041

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00375 Of 2016

M.S. Sathyan

APPELLANT

Vs

Superintendent of Post Offices Irinjalakkuda Division
Irinjalakkuda ? 680121 & Others

RESPONDENT

Date of Decision : 16-06-2022

Acts Referred:

Citation : (2022) 06 CAT CK 0041

Hon'ble Judges : Ashish Kalia, Member J;K. V. Eapen, Member (A)

Bench : Division Bench

Advocate : O.V. Radhakrishnan, Sr, V.A. Shaji, M.R. Hariraj

Final Decision : Dismissed

Judgement

Ashish Kalia, Member J

1. This Original Application has been filed by the applicant seeking the following relief:

"i. To call for the records leading to Annexure A-5 Memo dated 15.5.2015 of the 1st respondent appointing the 4th respondent as Cash Overseer and to set aside the same;

ii. To issue appropriate direction or order directing the 1st respondent to promote the applicant to the cadre of Cash Overseer with effect in the order of his seniority from the date on which the 4th respondent was promoted as Cash Overseer, Chalakkudy Head Post Office with all consequential benefits including arrears of pay and allowances;

iii. To issue appropriate direction or order which this Hon'ble Tribunal deems fit, just and proper in the circumstances of the case; and

iv. To allow the above O.A with the costs to the applicant."

2. The applicant, who is working with the respondents as Postman, Irinjalakkuda

Head Post Office, was appointed on 6.4.1996 and had been continuing as such. The applicant has submitted that under Rule 281 of P&T Manual Volume IV appointment to the post of Branch Postmasters, Overseers, Overseer Postmen, Sorting or Reader Postmen and Head Postmen should be made by promotion of Postmen and Village Postmen. As per the said Rule, such appointments will normally be made in the order of seniority, but the appointing authority may, in his discretion, pass over any senior official whom he does not consider fit for such appointment. A single gradation list should be maintained for the holders of all these posts which should be made inter-changeable. A copy of the Rule 281 of the P&T Manual, Volume IV has been produced as Annexure A-1. It is submitted that the first respondent published the Divisional Gradation List of Postman under Irinjalakuda Division as per proceedings dated 21.1.2013, a copy of which is produced as Annexure A-2. In Annexure A-2 the applicant is shown at serial no.16 and the 4th respondent in the Original Application is included at serial no.20. Hence the applicant submits that he was legally entitled to be promoted as Cash Overseer in preference to the 4th respondent who is junior to the applicant. The applicant had submitted his willingness and the same had been forwarded by the Postmaster, Irinjalakkuda Head Post Office vide Annexure A-3. However, when the Divisional Gradation was published by the first respondent on 27.1.2016, the name of the 4th respondent was seen to be not included. On inquiry, the applicant learnt that the 4th respondent had been promoted as Cash Overseer, Chalakkudy HO, superseding the applicant. The appointment order of the 4th applicant is produced as Annexure A-5. The applicant submits that the issue whether the post of Cash Overseer is a promotion post of Postman or not is no longer res integra in view of the decision of this Tribunal in O.A No.542/2014. This order was followed by this Tribunal's order in O.A No.624/2013. Therefore, the applicant submits that he is legally entitled to be promoted as Cash Overseer in the order of his seniority and promotion of the 4th respondent, who is junior to the applicant, is illegal and discriminatory. Hence, he has approached this Tribunal seeking the aforementioned relief.

3. The official respondents (Respondents nos.1 to 3) entered their appearance through Adv.Mr.V.A.Shaji, ACGSC and have filed their reply statement. It is submitted that the post of Cash Overseer Chalakudi H.O had fallen vacant on 7.7.2014 as the incumbent was promoted as PA and had been deputed for PA Induction Training from 7.7.2004 to 6.9.2014. The 4th respondent is suffering from severe pelvic bone disorders and undergoing treatment at RCC, Trivandrum. He had represented in the Regional Level/Circle Level Staff Grievance Cell Meetings for getting a posting as Cash Overseer/Mail Overseer as the duties of Postman involved physical strain. Thus the 4th respondent had requested for the post citing his inability to work as Postman as duties of postman requires frequent cycling. Hence, he was posted as Cash Overseer, Chalakudi H.O by the first respondent on compassionate grounds. The respondents, however, submit that the post of Cash Overseer is not a promotional post. It does not carry any higher pay fixation. It is also submitted that seniority is not the lone criteria for

the post of Mail Overseers/Cash Overseers. The respondents also submit that the applicant is in any case not the senior-most official who made request to be appointed to the post of Cash Overseer Chalakudi H O and, thus, the applicant does not have any vested right for posting to a particular post. Further, the applicant had preferred a representation against his posting after a period of 9 months. The respondents have relied on the judgment of the Hon'ble Supreme Court in the case of State of UP and others v. Siya Ram and another, 2001 (7) SCC 405, in which it is held that no government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or at a place of his choice, since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incidence, but a condition of service, necessary in public interest and efficiency in the public administration.

4. We have heard both sides at length and perused the records. The applicant is aggrieved by Annexure A-5 order dated 15.5.2015 issued by the Superintendent of Irinjalakkuda Division, Irinjalakkuda. It is stated in Annexure A-5 that Sri.E.V.Murali, Postman, Chalakudi H.O (respondent no.4) is transferred and posted as Cash Overseer, Chalakudi H.O with immediate effect, vice post vacant and the transfer is at the request of the official without T.A and T.P. The applicant's grievance is that he should have been considered and he should have been given the post of Cash Overseer from the date of his junior, the fourth respondent Mr.E.V.Murali. It is noted that Mr.E.V.Murali was transferred to the post in 2015, whereas, the applicant got the same, in the year 2019. It is submitted that this affects his further promotional avenues for the next higher post.

5. On the contrary, learned counsel for the respondents drew our attention to paragraphs 5 and 6 of the reply statement which reads as follows:

"5. With regard to the contentions raised by the applicant in para 4 (ii) it is submitted that the applicant cannot claim posting to a post of his choice as a matter of right. Moreover, the post of Cash Overseer is not a promotional post and does not carry any higher pay fixation.

6. With regard to the contentions raised in para 4(iii) it is submitted that seniority is not the lone criteria for the posting of Mail Overseers/Cash Overseers. If for the argument sake, if the seniority is the only criteria, then the applicant is not the eligible senior most official, who had requested for the post, as stated in his version. "

The respondents have taken the stand that this is not a promotional post. The Departmental concerned higher authority has discretion to ignore an official without assigning any reason. Be that as it may, respondent no.4, represented by Adv.Mr.M.R.Hariraj submits that no actual promotion was given to him. He submits that it is only a working arrangement for the said post and no seniority can be claimed by the applicant from the date the Respondent no.4 was given

the post.

In the present case, the respondent no.4 was given the Cash Overseer post from 2016. The applicant has also been considered by the concerned authority in 2019 and he is now working as such.

6. Rule 281 of the P&T Manual, Volume IV as well as the reply filed by the official respondents have made the position clear that there is no special pay attached with and no seniority is attached with the said post. The posting is only an official arrangement. The contention raised by the applicant in the present Original Application is, thus, not found favourable. In view of this, the Original Application fails and is rejected.

7. Having no merit whatsoever, the Original Application is dismissed. No costs.