

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**THE HON'BLE SRI JUSTICE N. BALAYOGI**

**WRIT PETITION No.24577 of 2016**

**Date: 19-01-2017**

**Between:**

Union of India rep by the Secretary,  
Ministry of Communications and IT, and  
the Director General of Posts – India,  
Department of Posts, Dak Bhavan,  
Sansad Marg, New Delhi 110001 and others.

... Petitioners.

**and**

Ch. Bala Swamy, Assistant Superintendent  
of Post Offices (Head Quarters),  
O/o. The Superintendent of Post Offices,  
Suryapet Division, Suryapet and another.

... Respondents



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**O R D E R:** (Per Hon'ble Sri Justice Sanjay Kumar)

The Union of India and the officials of the Postal Department filed this writ petition questioning the order dated 01-04-2016 passed by the Central Administrative Tribunal, Hyderabad, in O.A.No.612/2015. The said O.A. was filed by the first respondent herein seeking a direction to the authorities to give effect to the order dated 20-02-2015, whereunder he was promoted to the Group 'B' post of Superintendent of Post Offices and posting him in Maharashtra Circle. By the order under challenge, the Tribunal directed the postal authorities to give effect to the said promotion within a time frame.

2. Sri B. Narayana Reddy, learned Assistant Solicitor General of India, would however contend that the first respondent was facing disciplinary proceedings and, therefore, he was not eligible to be considered in terms of the Memo dated 14-09-1992 issued by the Government of India through its Ministry of Personnel, Public Grievances and Pensions Department.

3. Perusal of the order passed by the Tribunal, however, reflects that the authorities issued charge memo dated 21-05-2012 against the first respondent, in the first instance, but the same was ultimately dropped on 10-11-2014. Dropping of the charge memo was however without prejudice to further action which may be considered in the circumstances of the case. While so, the promotion order came to be passed on 20-02-2015, at which point of time, there was no disciplinary proceeding pending against the first respondent.

It was only thereafter that a fresh charge memo was issued on 17-04-2015. The disciplinary proceedings now pending are pursuant to the second charge memo dated 17-04-2015. Perusal of Para 2 of the Office Memorandum dated 14-09-1992 reflects that while considering the candidature of Government Servants for promotion falling under the following categories, the same should be specifically brought to the notice of the Departmental Promotion Committee:-

- “(1) Government Servants under suspension,*
- (2) Government Servants in respect of whom a charge sheet has been issued and the disciplinary proceedings have been pending; and*
- (3) Government Servants in respect of whom prosecution for criminal charge is pending.”*

4. The learned Assistant Solicitor General does not dispute the fact that the first respondent does not fall in any of the aforestated three categories as on the date of the promotion order dated 20-2-2015. Though he relied upon para No.7 of the Office Memorandum dated 14-09-1992, which states to the effect that the Government Servant, who is recommended for promotion by the Departmental Promotion Committee, but in whose case any of the circumstances mentioned in para No.2 above arose after the recommendations of the DPC are received, but before he is actually promoted, he would be considered as if his case has been placed in a sealed cover by the DPC. This clause also has no application to the case on hand as the first respondent was already promoted by the time the second charge memo was issued on 17-04-2015.

5. This being the situation, we find no irregularity in the order passed by the Tribunal directing the authorities to give effect to the promotion order dated 20-02-2015.

6. The Writ Petition is devoid of merit and is accordingly dismissed. However, it is made clear that we have not ventured any opinion on the issue of the disciplinary proceedings pending against the first respondent.

7. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

**JUSTICE SANJAY KUMAR**

**JUSTICE N. BALAYOGI**

**Date: 19-01-2017**  
mrb

