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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5425/2017

NARENDER SINGH

..... Petitioner

Through: Mr. Shesh Datt Sharma, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Suman Chauhan, Advocate for
respondents No.1 to 4.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

25.09.2017

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1. The petitioner has preferred the present writ petition to assail the order dated 21.03.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No. 3295/2015. The Tribunal has dismissed the said Original Application preferred by the petitioner, wherein he has sought a direction to the respondents to give him benefit of 10% reservation available to Ex-Army personnel and promote him to the Group 'C' service under them, with all benefits available to the said post right from August 2014 onwards. He also sought a direction to the respondents to give him benefit of MACP as per his length of service rendered under the respondents.

2. At the time of hearing of the Original Application, the petitioner restricted his claim to the first relief aforesaid.

3. The petitioner is an Ex-Serviceman. He was engaged as a Gramin Dak Sevak Branch Post Master (GDS BPM), Jansath, vide memo dated 11.01.2000. He joined the said post on 24.01.2000. He made an application on 08.09.2014 to the SSPOs, Muzaffarnagar, for granting him Ex-Serviceman reservation benefit and promotion to Group 'C' cadre. He followed that application with another application on 15.10.2014.

4. The petitioner claimed that he had been appointed as GDS BPM against a vacancy reserved for Ex-Serviceman. In support of his claim, he placed reliance on an order dated 15.05.2002 passed by the Tribunal in O.A. No. 2282/2011, wherein he had assailed his termination from the post of GDS BPM. He also placed reliance on an Office Memorandum dated 14.08.2014 issued by the DoP&T and some newspaper clippings to claim benefit of reservation to Ex-Serviceman to the extent of 10% of the vacancies in Group 'C' in all the Central Civil Services and posts.

5. The claim of the petitioner was contested by the respondents. The respondents stated that the vacancy notified on 16.04.1999, pursuant to which the petitioner was engaged as GDS BPM, was unreserved. Hence, there was no question of engaging the petitioner under any quota of Ex-Serviceman.

6. The further contention of the respondents was that in the Department of Posts, there are various posts earmarked as Group 'C' posts such as Postman, Mailguard, MTS and Postal Assistant, to which appointments are

made as per separate/ specified Recruitment Rules. In none of these Recruitment Rules, there is any provision for promotion of a GDS to any of the said posts on the basis of reservation for Ex-Serviceman. The petitioner had also not mentioned any specific post in Group 'C' category to which he claimed promotion on the basis of reservation for Ex-Serviceman. As per the Rules, GDS can be promoted to the post of MTS cadre only by selection-cum-seniority basis. As per Recruitment Rules of MTS cadre, 25% vacancies are to be filled from amongst the GDSs of the recruiting division on the basis of selection-cum-seniority. There is no provision to fill any vacancy on the basis of reservation for Ex-Serviceman, while making appointments of MTS on selection-cum-seniority basis. The respondents also stated that there were number of GDSs working in Muzaffarnagar Division – where the petitioner was serving, who had joined as GDSs prior to the petitioner's joining the said Department, who too had not been promoted on the basis of their seniority till now. The petitioner, therefore, could not have any grievance against his non-promotion to the Group 'C' cadre post.

7. The Tribunal after examining the submissions did not find any merit in the petitioner's claim and, accordingly, dismissed the Original Application.

8. Before us, learned counsel for the petitioner has sought to refer to the Office Memorandum dated 14.08.2013 issued by the DoP&T, and in particular, the following extract from paragraph 4 of the said OM:

“4. The matter has, therefore, been considered in consultation with Department of Ex-servicemen, Ministry of

*Defence. It has now been decided that if an ex-serviceman applies for various vacancies before joining any civil employment, he/she can avail of the benefit of reservation as ex-serviceman **for any subsequent employment**. However, to avail of this benefit, an ex-serviceman as soon as he/she joins any civil employment, should give self declaration/undertaking to the concerned employer about the date-wise details of application for various vacancies for which he/she had applied for before joining the initial civil employment. Further, this benefit would be available only in respect of vacancies which are filled on direct recruitment and wherever reservation is applicable to the ex-servicemen.” (emphasis applied)*

9. It is clear from a plain reading of the aforesaid extract that the petitioner is misreading and misunderstanding the provision thereof. All that the aforesaid extract shows is that if an Ex-Serviceman applies for various vacancies before joining any civil employment, he/she can avail of the benefit of reservation as Ex-Serviceman “*for any subsequent employment*”.

10. It is not the petitioner’s case that he had applied for various posts before joining as GDS BPM, including for Group ‘C’ posts on direct recruitment basis. The use of the expression “*for any subsequent employment*” excludes appointment in the same service which the Ex-Serviceman may have joined as an Ex-Serviceman. In the present case, the petitioner did not join as an Ex-Serviceman since the post in question did not carry any reservation for Ex-Serviceman. The aforesaid position is clear from the last line of paragraph 4 of the OM aforesaid, which states that the benefit would be available only in respect of vacancies which are filled on direct recruitment and wherever reservation is applicable to the Ex-Serviceman.

11. Thus, there is absolutely no merit in the present petition. The same is, accordingly, dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 25, 2017

B.S. Rohella