

11

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2474/2002

New Delhi this the 2nd day of January, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V.SRIKANTAN, MEMBER (A)

Shri Hetram
S/o Shri Ramsingh Verma
R/o IV/4, Old D.P.S. Compound
Ramgiri Road
Civil Lines
Nagpur.

..... Applicant

(By Shri Sant Lal, Advocate)

-versus-

1. Union of India
Ministry of Communication,
Department of Post
Dak Bhawan
Sansad Marg
New Delhi.
2. Chief Postmaster General
Delhi Circle
Meghdoot Bhawan
New Delhi-1.
3. Post Master General,
Nagpur Region
Shankar Nagar Chowk
Nagpur.

... Respondents

(By Shri R.P. Aggarwal, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant Hetram was appointed with the respondents in the year 1963. He was sent on deputation to the Army Postal Service with effect from 10.2.1967. The applicant while on deputation, had passed the Inspector of Post Offices Examination in the year 1971. The applicant was given proforma officiating promotion in the cadre



of Inspector of Post Offices from February 1972 in his parent department. While he was still on deputation, Shri C.L.Prabhakar his junior was promoted on ad hoc basis as HSG-II with effect from 26.7.1978. The applicant claims that he was entitled to the benefit of Next Below Rule and for grant of officiating certificate in this regard. He also contends that one Shri D.L.Yadav who was also on deputation but senior to the applicant was granted proforma officiating promotion in the HSG-II though he was situated like the applicant. The representations of the applicant were not accepted. Hence the present application has been filed seeking that the applicant should be granted proforma officiating promotion in the HSG-I grade with effect from 31.1.1989.

2. The respondents have contested the application. It is admitted that Shri C.L.Prabhakar had been given promotion in HSG-I cadre on purely temporary and ad hoc basis but the representation of the applicant had been rejected. All the officials senior to the applicant had been given the above said grade and persons junior to him were promoted on regular basis vide order dated 3.12.1991. The defence of the respondents is that as per instructions contained in FR-30, para-4, the officials working outside the regular line are entitled to the benefit envisaged under Next Below

As Ag

Rule subject to the condition that all the seniors and at least one junior should have been regularly promoted. The applicant was senior to Shri C.L.Prabhakar. Shri C.L.Prabhakar was only promoted on ad hoc basis on 17.8.1987 and worked on ad hoc basis upto 3.12.1991. As a result of the cadre review, it was proposed to transfer the five posts of HSG-I(IPO line) to HSG-I (General line). Certain persons had to be promoted. The Departmental Promotion Committee meeting was held in the year 1991. Shri H.R.Verma was granted officiating certificate from 3.12.1991 i.e. the date when his junior Shri C.L.Prabhakar started officiating. The case of Shri D.L.Yadav was described to be one of bad precedent.

3. Certain facts in this regard are not in controversy, namely that a person junior to the applicant had been given the benefit of the grade while the applicant who was on deputation had not been granted the said benefit.

4. Whenever the junior person in the parent department is awarded a higher scale or promotion, necessarily the senior person gets the benefit of Next Below Rule unless it happens to be one of the exceptions where he may not be found suitable for promotion or any such condition or event that may take place. Once a person junior to the applicant


CS Ag


14

had been given the benefit, we find no reason as to why the applicant should not be entitled to the same. In fact, the case of Shri D.L.Yadav itself shows that he too was on deputation though he was senior to the applicant. The matter in question becomes identical because while on deputation, keeping in view the benefit given to the junior person who was even junior to the applicant was given the said benefit. Once that is the position, we do not find any reason as to why the applicant should be discriminated.

5. For these reasons, we allow the present application. The impugned order of 9.4.1999 is quashed. It is directed that the applicant is entitled to the benefit of Next Below Rule of proforma officiating promotion from 31.1.1989. No costs.

Announced.


(V. Srikantan)
Member (A)


(V. S. Aggarwal)
Chairman

/sns/