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(V.K.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.2434/2001

This the 13<sup>th</sup> day of December, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

1. All India Savings Bank Control Employees Union through its General Secretary, Shri I.D.Sharma, F-234 Prashant Vihar, New Delhi.

2. Azad Singh S/O Mukhtiar Singh, R/O 775/10 Ram Gopal Colony, Sonipat Road, Rohtak, Haryana.

... Applicants

( By Shri S.K.Gupta, Advocate )

-versus-

1. Union of India through Secretary, Department of Post, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.

2. Chief Post Master General, Haryana Circle, Ambala, Haryana.

... Respondents

( By Shri K.R.Sachdeva, Advocate )

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant No.1 is the All India Savings Bank Control Employees Union and applicant No.2 is an employee of the All India Savings Bank Control Organisation, Department of Post. In 1983, a time-bound one promotion (TBOP) scheme was extended to operational staff of the postal employees of the Postal Department. The same was also extended to the Savings Bank employees by circular dated 26.7.1991 effective from the same date. Under the scheme, employees were entitled to upgradation of pay

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scale after putting in 16 years' service. By a further circular of 11.10.1991, a biennial cadre review (BCR) scheme was introduced w.e.f. 1.10.1991. Under the said scheme, a further financial upgradation was provided after putting in 26 years of service.

2. Applicants' case is that in case a junior had been granted benefit of the aforesaid schemes after having put in the requisite number of years of service, his seniors are entitled to be conferred the said benefits even though they had not put in the requisite number of years of service. By Annexure A-1 dated 17.5.2000 guidelines for considering placement under TBOP/BCR schemes in cases where seniors are considered for placement at par with their juniors have been revised by respondents in the light of the judgment of the Hon'ble Supreme Court dated 8.3.1988 in the case of **R.Prabha Devi & Ors. v. Govt. of India & Ors.**, AIR 1988 SC 902. It has been stated, "seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority cannot be substituted for eligibility nor it can override it in the matter of promotion to the next higher post." It has further been stated that placements under TBOP and BCR schemes are based on the length of service of the officials concerned and not on the criterion of seniority and as such seniors cannot claim higher scale of pay at

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par with their juniors. Seniors shall not be considered for the next higher scale of pay without completing the prescribed period of service as per the eligibility condition of placements in the higher scales of pay.

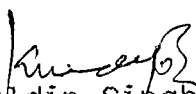
3. Similar claims of certain applicants were rejected in OA Nos.1528 and 1560-1568/2000 by the Bangalore Bench of the Tribunal by order dated 8.10.2001. The same were rejected on the ground that it is a policy matter and the Executive has the liberty to take policy decisions and also to correct a past but erroneous policy by laying down a new and more rational policy to regulate matters like time-bound promotions. A similar matter {OA No.403/1992 (Bangalore Bench) decided on 3.8.1993} has been taken to the Hon'ble Supreme Court in CM No.10784/1995. The Hon'ble Supreme Court on 24.2.1995 had granted interim stay of the impugned judgment of the Tribunal. The learned counsel of applicants conceded that if the interim stay granted by the Hon'ble Supreme Court is withdrawn or the final judgment of the Hon'ble Supreme Court is adverse to the claims of the petitioners, applicants shall have no entitlement to the claim made here.

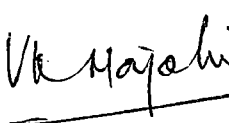
4. The learned counsel of respondents stated that applicants have admitted that the matter raised in the present OA is a policy matter which falls within the domain of the Executive. He stated that respondents have relied upon a judgment of the Hon'ble Supreme Court and made a rational decision that seniority in a particular cadre would not entitle a public servant for promotion to

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a higher post unless he fulfils eligibility conditions prescribed by the relevant rules. TBOP and BCR schemes are based on the length of service of the officials concerned and not on the criterion of seniority. These are merely financial upgradations and not actual promotions. Seniors in the gradation list cannot claim higher scale of pay at par with their juniors, as juniors get the higher scale of pay by virtue of their completion of prescribed years of service, i.e., 16/26 years respectively. Seniors would also be eligible for placement in the higher scales of pay under the scheme only when they complete the prescribed number of years.

5. Having regard to the facts and circumstances of the case as also the fact of pendency of the matter in the Hon'ble Supreme Court arising from the order of the Bangalore Bench of the Tribunal in OA No.403/1992 dated 3.8.1993, the present OA is disposed of with a direction that this matter shall also stand disposed of in terms of the decision of the Hon'ble Supreme Court of India.

  
( Kuldip Singh )  
Member (J)

  
( V. K. Majotra )  
Member (A)

/as/