

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 98/99

New Delhi: this the 16th day of November, 2000. (12)

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Sri Chand,
S/O Sh. Khyali Ram,
employed as Junior Accounts Officer,
in the O/o Director of Accounts (Postal),
Delhi.

R/o Gurgaon Distt. Applicant.

(By Advocate: Shri Sant Lal)

Versus

1. Union of India,
through
the Secretary,
Ministry of Communication,
Deptt. of Posts,
Dak Bhawan,
New Delhi -1

2. The Chief Post Master General,
Delhi Circle,
Meghdoot Bhawan,
New Delhi-1.

3. The Director of Accounts (Postal),
Civil Lines,
Delhi-54

..... Respondents.

(By Advocate: Shri Rajinder Nischal)

ORDER

S. R. Adige, VC (A)

Applicant who belongs to SC community and was promoted as Asstt. Accounts Officer (AAO) under 80:20 Scheme on the basis of seniority-cum-fitness on 31.12.99 seeks antedating of his promotion w.e.f. 9.1.98 with consequential benefits.

2. Heard both sides.

3. Respondents do not deny applicant's averments

contained in paras 4.4 and 4.5 of the OA that the DPC which met on the latter half of 1997 recommended 6 officials for promotion from JAOs to the grade of AAOs including applicant who was at Sl.No.6. The first 3 out of that list of 6 officials were promoted as AAOs w.e.f. 8.1.98, while Sl.Nos.4 and 5 were promoted as AAOs vide order dated 16.6.98 but w.e.f. 9.11.98 was reserved for S.T.

4. Respondents contend that under para 11.2 of the Brochure on reservation for SC/ST, had the case been one of selection from Group 'C' to Group 'B', the ST vacancy could have been exchanged for an SC vacancy in the same year of recruitment, but as the promotion from JAO to AAO was on non-selection basis the exchange could not be effected in the same year of recruitment and the vacancy had to be carried forward.

5. Shri Sant Lal has however invited attention to para 5.2 of the OA in which reference has been made to the instructions contained in the clarification given against para 5(c) of the Annexure to CAG's Circular dated 23.1.98 wherein the doubt whether the seniormost official in a cadre belonging to reserved category and considered fit for promotion on seniority cum fitness basis, can be promoted to a higher post despite excess representation of such reserved category in the higher posts has been answered in the affirmative. Shri Sant Lal has emphasised that in the present case also after promotion of the first five officials, applicant became seniormost and he also was not promoted because the SC quota was full. He contended

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that this clarification squarely covered his case.

6. This contention has not been specifically repelled by respondents in the corresponding para of their reply.

7. In the result this OA succeeds and is allowed to the extent that in the background of what has been stated in para 5 above, respondents should consider antedating applicant's promotion as AAO w.e.f. 9.1.98 with consequential benefits by means of a detailed, speaking and reasoned order in accordance with rules and instructions within 3 months from the date of receipt of a copy of this order. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

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