

Central Administrative Tribunal, Principal Bench

Original Application No. 1531 of 1996

New Delhi, this the 20th day of July, 2000

Hon'ble Mr.Justice Ashok Agarwal Chairman
Hon'ble Mr.V.K.Majotra, Member (Admnv)

(8)

Shri P.K.Rohatgi son of Shri R.P.Rohatgi,
working as Deputy Postmaster (HSG-II) in
I.P.Head Post Office, New Delhi-110002,
resident of Delhi-92, address for service of
notices C/o Shri Sant Lal, Advocate, C-21
(B), New Multan Nagar, Delhi-110056 - Applicant

(By Advocate Shri Sant Lal)

Versus

1. The Union of India,through the Secretary
Ministry of Communications, Department of
Posts, Dak Bhawan, New Delhi-110001.
2. The Chief Postmaster General, Delhi
Circle, Meghdoot Bhawan, New Delhi-110001
3. Shri K.K.Kapoor, Sub Postmaster, Hauzkhast
Post Office, New Delhi-110016. - Respondents

(By Advocate Shri Madhav Panikar)

O R D E R (Oral)

By V.K.Majotra, Member(Admnv) -

The applicant claims his right of
consideration for promotion to the next higher grade of
Higher Selection Grade-I ('HSG-I' for short) in the pay
scale of Rs.2000-3200 on the basis of his seniority. He
has assailed order dated 11.6.1996 (Annexure-A-1)
whereby consequent upon the upgradation of 9 posts of
HSG-II (Postal General Line) cadre applicant has been
by-passed whereas 10 others have been promoted from
HSG-II to HSG-I cadre in the pay scale of Rs.2000-3200
with immediate effect. He has also challenged letter
dated 9.7.1996 (Annexure-A-2) whereby the Chief
Postmaster, Indraprastha Head Office, New Delhi has
conveyed to the applicant that since he had not
completed 3 years of regular service in HSG-II as

prescribed in the Recruitment Rules, he is not eligible for promotion to HSG-I.

2. The Department of Posts introduced the Time Bound Promotion Scheme vide order dated 17.12.1983 with effect from 30.11.1983. Under this Scheme the officials on completion of 16 years of service in the basic pay are placed in the next higher scale. The seniority of all those who had been promoted to the Lower Selection Grade ('LSG' for short) in the pay scale of Rs.425-640 prior to 30.11.1983 were protected and they had ranked senior to those promoted with effect from 30.11.1983 under the Scheme. The applicant and other regular LSG officials had been granted special pay of Rs.35/- for holding supervisory posts. The Department of Posts introduced second time bound promotion scheme known as Biennial Cadre Review ('BCR' for short) with effect from 1.10.1991. Under this Scheme officials having rendered 26 years of service in the basic grade including service in the higher grade are placed in the next higher scale of Rs.1660-2660 (HSG-II). A good number of officials including respondent 3 were promoted to the next higher scale of Rs.1660-2660 with effect from 1.10.1991 on completion of 26 years of service. The applicant was not considered on the ground that he had not rendered 26 years of service in the basic grade. He filed OA 1713/1993 before this Tribunal. The Tribunal vide order dated 4th June, 1994 directed the respondents to consider the applicant for promotion to the next higher of HSG-II without insisting on completion of 26 years of service in the basic grade in case he was found fit. Accordingly vide order dated 22.3.1995 the applicant was

promoted to HSG-II with effect from 1.10.1991 i.e. the date from which his juniors were promoted. His seniority was also fixed at the appropriate place in HSG-II above the name of Shri K.K.Kapoor, respondent 3 vide order dated 7.3.1996. Consequent upon upgradation of 9 posts of HSG-II (Postal) vide order dated 3.1.1996 10 officials of HSG-II were promoted to HSG-I in the pay scale of Rs.2000-3200 vide order dated 11.6.1996 (Annexure-A-1). Although Shri K.K.Kapoor, respondent 3, who is junior to the applicant, was promoted, the applicant was not considered for promotion. The applicant made representation against the impugned order dated 11.6.1996 on 18.6.1996. The applicant was informed vide letter dated 9.7.1996 (Annexure-A-2) that as prescribed in the recruitment rules HSG-II officials who have completed 3 years service in the grade are eligible for promotion to HSG-I, he does not fulfil the eligibility condition for selection to HSG-I

3. In their counter the respondents have admitted that some of the officials junior to the applicant, who had completed 26 years of service were given next higher scale of Rs.1600-2660 and as per their seniority further promotion. He was not considered as he had not completed 26 years of service as on 1.10.1991. They have also admitted that on upgradation of 9 posts of HSG-II to HSG-I although the applicant had become senior to Shri K.K.Kapoor in HSG-II, Shri K.K.Kapoor was promoted to HSG-I having completed three years regular service in HSG-II. The applicant was left out not having completed three years of regular service in HSG-II. The applicant has filed a rejoinder as well.

4. We have heard the learned counsel on both sides and given our careful consideration to the material on record.

5. The learned counsel of the applicant drew our attention to order dated 24.9.1996 of the Department of Posts whereby certain clarifications were issued in regard to the time bound promotion/ BCR Scheme. The relevant point for clarification and the clarification thereupon are as follows :-

"13. As a result of orders dated 8.2.96 1/3rd & 2/3rd LSG who have not completed 26 years of service are to be promoted to BCR from the date of their juniors. It is presumed that such officials even though promoted to BCR with retrospective effect be deemed to have completed 3 years of service which is the eligibility condition for promotion to H.S.G.-I.

Clarification The orders dated 8-2-96 clearly indicate that the officials whose seniority was adversely affected by implementing TBOP/ BCR Schemes, placing their juniors in the next higher scale of pay will now be considered for next higher scale of pay from the date their immediate juniors became eligible for next higher scale of pay. It has also been mentioned that inter-se-seniority of the officials in lower grade will be kept intact for the purpose of eligibility for promotion to the next higher grade. As such the presumption made is confirmed."

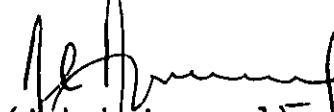
He has also brought to our notice that not only that the applicant was given a notional promotion to HSG-II with effect from 1.10.1991, though actually this was made on 7.3.1996, he was actually given consequential benefits of arrears of pay and allowances as well with effect from 1.10.1991. This factum was also admitted by the learned counsel of the respondents.

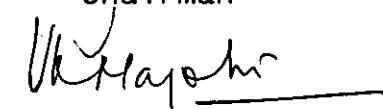
6. In view of the clarification issued vide order dated 24.9.1996 LSG who had not completed 26 years of service have to be promoted under the BCR Scheme from

the date of their juniors, a presumption has also to be drawn that those officials who have been promoted under BCR scheme with retrospective effect have to be deemed to have completed three years of service, which is the eligibility condition for promotion to HSG-I.

7. In the facts and circumstances of the case when applicant's junior Shri K.K.Kapoor has been accorded HSG-I on having completed three years of service in HSG-II, in implementation of aforesaid clarification issued by the Department of Posts, the claim of the applicant succeeds.

8. In the result, we quash the impugned order dated 9.7.1996 and direct the respondents to hold a review DPC to consider the applicant for promotion to HSG-I as per his seniority and if he is found fit, he should be deemed to have been promoted to HSG-I from the date his junior stood promoted. In the eventuality of according HSG-I to the applicant, the respondents shall also grant the applicant all consequential benefits within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)