

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No. 1774/88

Date of Decision: 19.4.1991

Guru Dutt Arya & Ors.

... Applicants.

Vs.

Union of India & Ors.

... Respondents.

O.A. No. 350/89

Kailash Chander Ahuja & Ors.

... Applicants.

Vs.

Union of India & Ors.

... Respondents

O.A. 1471/88

Mehinder Paul Ahir & anr.

... Applicants.

Vs.

Union of India & Ors.

... Respondents.

O.A. 1193/88

Girdhari Lal

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

THE HON'BLE MR. I.K. RASCOTRA, MEMBER(A).

For the Applicants in

- Shri Sant Lal, Counsel.

O.As 1774/88, 350/89, 1471/88.

For the Applicant in O.A. 1193/88.-

Ms Nitya Ramakrishnan,
Counsel.

For the Respondents.

- Shri P.P. Khurana,
Counsel.

(Judgement of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji,
Chairman)

In the above four cases, identical

AB

arise
questions of facts and law. The matter pertains to the promotion to the Lower Selection Grade from the Grade of Sorters in the Railway Mail Service of the Department of Post and Telegraphs, Ministry of Communications. The Post and Telegraph (Selection Grade) Recruitment Rules 1976 framed in the exercise of power conferred by Article 309 of the Constitution prescribe for seniority-cum-merit as the criterion for promotion. There is a provision for scrutiny by a Departmental Promotion Committee as a pre-condition for promotion.

The applicants alleged that the respondents have discriminated among equals ignoring senior claimants and were making piece-meal and haphazard promotion to the Lower Selection Grade. In September, 1968, there was strike in the Post and Telegraph Offices in the country in which several employees were marked dies-non and some others arrested for brief periods. The allegation is made that there was an attempt to award loyal employees and 19 Sorters who came to work in the strike period were promoted to the Lower Selection Grade by the order dated 30.9.1968. The matter was challenged by one Shri Kulwant Singh, a sorter on deputation to the Army Postal Service, by a writ petition before the Delhi High Court. His case was upheld and the respondents were directed that he be considered for promotion as per statutory rules. He was promoted to the Lower Selection Grade by creating a supernumerary post. A

similar order was again passed on 15.3.1985 promoting 14 sorters to the Lower Selection Grade. One Shri P.L. Tiwari challenged the 1985 order before this Tribunal in O.A. No. 155/86. He claimed that there was violation of statutory rules and by-passing of the seniors. A Division Bench heard the matter and by its judgement dated 7.9.1987 allowed the Application.

The applicants' case is that they made several representations to the authorities, but there was no response. It was lastly stated that/they have been granted the Lower Selection Grade and justice demands their promotion be made from 1968, the respondents be directed to give them pay and allowances as are given to their juniors who have been granted such promotion w.e.f. 1968.

The respondents took the plea that the present O.As are not maintainable under the Administrative Tribunals Act as no specific order of the Respondents has been challenged. Secondly, the Application was barred by time for it relates to a claim of promotion w.e.f. 1.10.1968 for which the applicants have never agitated. Thirdly, the Application was premature as the applicants had not exhausted the departmental remedies available to them. Further, it was stated that the Application is not maintainable, as all those officials who are alleged to have superseded the applicants,

are not made parties. On the merits, it was admitted that 19 officials were given the pay scale of the Lower Selection Grade w.e.f. 30.9.1968 on the ground that during the period of strike, by performing their duties, they had kept the offices working. They were allowed to continue in the Lower Selection Grade till they were regularly absorbed in the Grade by virtue of their seniority in the Sorting Assistant Grade, i.e., till their regular absorption in the Selection Grade. The order dated 15.3.1985 was issued by the office of the P.M.G., Delhi Circle, giving the benefit of notional promotion to 14 officials who were on deputation to Army Postal Service on 30.9.1968. Lastly, it was pleaded that the decision in the case of P.L. TIWARI (SUPRA) is distinguishable on the ground that the applicants had not agitated before the department, and, therefore, were precluded from agitating the matter before the Tribunal.

Learned counsel for the applicants Shri Sant Lal and Ms Nitya Ramakrishnan stated that similar matters (Yash Pal Kumar & Ors. Vs. U.O.I. & Ors., O.A. No. 1746/88, Brihaspati Prasad Vs. U.O.I. & Ors., O.A. No. 968/88, Karam Narain & Ors. Vs. U.O.I & Ors., O.A. No. 2314/88, Raj Kumar Sharma & Ors. Vs. U.O.I. & Ors., O.A. No. 1545/88, Chhote Lal & Ors. Vs. U.O.I. & Ors., O.A. No. 786/88) had come up before this Tribunal and this very Bench had taken a decision allowing the O.As and directing the respondents to grant promotion from 1.10.1968 to the present applicants, and they

were also made entitled to monetary benefits arising out of difference of pay and allowances from 1.10.1968 to the actual date of their promotion, and further that the above order will be complied within a period of three months from the date of receipt of a copy of the order. Learned counsel for the applicants further stated that these four cases are identical and are covered by the above decision.

We have heard Shri Sant Lal and Ms. Nitya Ramakrishnan, learned counsel for the applicants, and Shri P.P. Khurana, ~~Counsel~~ on behalf of the respondents.

Since the matters are identical and the same questions are raised which have been decided by this Bench on 28.6.90 in O.A. No. 1746/88 and other four O.A.s, we are of the view that the same findings are arrived in the present four cases. We quote the paragraph from that judgement, which is reproduced as under:

"We find considerable force in the above argument and we are of the view that the applicants are also entitled to promotion from 1.10.1968 being seniors to those who have been given promotion by orders dated 30.9.1966 and 15.3.1985. Since the promotions have already been given, the only question is to be decided from which date they should get promotion. There is no doubt in our mind that they must get their promotion from the date, their juniors got promotion viz., 1.10.1968. We also notice that the juniors who have been promoted vide order dated 30.9.68

were also given the benefit of pay and allowances. The applicants, being senior to those who have superseded them are also entitled to similar relief from 1.10.1968".

We are also of the view that the present applicants are also entitled to the same relief as has been given in that case.

We, therefore, allow these O.As and direct the respondents to grant promotion from 1.10.1968 to the present applicants in these four O.As and they would also be entitled to monetary benefits arising out of difference of pay and allowances from 1.10.1968 to the actual date of their promotion. The above order has to be complied with within a period of three months from the date of receipt of a copy of this order. There will be, however, no order as to costs.


(I.K. RASGOTRA)

MEMBER(A)

19.4.1991


(AMITAV BANERJI)

CHAIRMAN

19.4.1991