

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 142/86
T.A. No.

198 6

DATE OF DECISION 28.5.1987.

Shri Bakshi Ram

Petitioner

Shri Sant Lal

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent

Smt. Raj Kumari Chopra

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. Mukerji, Administrative Member.

The Hon'ble Mr. Ch. Ramakrishna Rao, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?



(Ch. Ramakrishna Rao)
Judicial Member



(S. P. Mukerji)
Administrative Member

Central Administrative Tribunal
Principal Bench, Delhi

Regn. No. OA-142/86

Dated: 28.5.1987.

Shri Bakshi Ram

.... Petitioner

Versus

Union of India & Ors.

.... Respondents

For the Petitioner

.... Shri Sant Lal,
Advocate.

For the Respondents

.... Smt. Raj Kumari Chopra,
Advocate.

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.
Hon'ble Shri Ch. Ramakrishna Rao, Judicial Member.

(Judgement delivered by Shri S.P. Mukerji)

JUDGEMENT

The petitioner, who is a Sorting Assistant under the Department of Posts, has moved this application under section 19 of the Administrative Tribunals Act praying that the order, dated 10.4.1984 notionally fixing his pay in the Lower Selection Grade of Sorter with effect from 1.6.1974 without arrears should be quashed and he should be given arrears of pay and allowances for the period from 1.6.1974 to 10.4.1980. The brief facts of the case can be recounted as follows. The applicant joined the post of Sorting Assistant on 1.1.1957 and claims that he was senior to the two officials, Shri Ajit Ram and Shri Hardial Singh Chanian who also joined on the same day but were younger in age. His seniority was wrongly fixed on the basis of his substantive entry in the grade without reference to the length of service. In accordance with the judgement of the Supreme Court, dated 4.1.1972, the Home Ministry issued instructions on 22.7.1972 to revise the seniority of those who had entered the grade prior to 22.12.1959, on the basis of length of service. The Office of the Post Master General did not correct the seniority and the plaintiff represented

against the seniority list as on 1.7.1974. As a result of non-correction of his seniority, those who were junior to him on the basis of length of service, were promoted to the Lower Selection Grade with effect from 1.6.1974 by the order, dated 28.9.1974. It was only on 11.4.1980 that the petitioner was promoted to the Lower Selection Grade and on 14.4.1980, his seniority was corrected and he was placed above Shri Ajit Ram. On his further representation, orders were issued on 10.4.1984 giving him the benefit of promotion to the Lower Selection Grade with effect from 1.6.1974 and notional fixation of pay from that day but the arrears were allowed to him only from 11.4.1980 when he had actually been promoted to that grade. The respondents' case is that the arrears could not be paid for the past period between 1974-1980 and he did not actually work in the Lower Selection Grade.

2. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. It is clear that the Lower Selection Grade is a non-functional grade without any change in responsibilities and duties. As such, the question of non-payment of this grade for not working against higher duties and responsibilities does not arise. Even where such change in duties and responsibilities is involved and promotion is made from retrospective effect, the courts have held that the employee is entitled to arrears of pay also. In Charan Das Chadha Vs. State of Punjab and Another, 1980 (3) SLR 702, the High Court of Punjab and Haryana observed that once promotion is made with retrospective effect, one cannot be deprived of benefit of pay and other benefits and Government cannot take advantage of

its own wrong or illegal order in not promoting him when promotion was due. Even in K.K. Jaggia Vs. State of Haryana and Others, 1972, SLR 578, the same High Court held that even where retrospective promotion is made after conclusion of departmental inquiry, one is entitled to arrears of pay even though he did not work in the higher posts for no fault of his. The Supreme Court in State of Mysore Vs. C.R. Seshadri, AIR 1974 SC 461, ordered that the retired employee should be considered for promotion with retrospective effect with all consequential monetary and other benefits.

3. As stated earlier, the instant case is even stronger than some of the cases illustratively cited above because in the instant case, the promotion to the Lower Selection Grade of the applicant did not involve assumption of higher duties and responsibilities.

4. In effect, we allow the application, quash the impugned order, dated 10.4.1982 to the extent the applicant is concerned, in so far as it relates to non-admissibility of arrears and direct that the applicant should be promoted to the Lower Selection Grade with effect from 1.6.1974 with all consequential benefits, including arrears of pay. The arrears of pay should be made good to him after adjustment of the pay already drawn within a period of two months from the date of communication of this order. There will be no order as to costs.

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao)
Judicial Member

S.P. Mukerji
(S.P. Mukerji)
Administrative Member