

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A. Nos. 671 AND 759 198 6

EXXXX.

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DATE OF DECISION 29-7-1987

Yog Dhian Piplani
Mohan Lal Mehta

Petitioner(s)

Shri Sant Lal

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondents

smt. Raj Kumari Chopra

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice K.S.Puttaswamy, .. Vice-Chairman

The Hon'ble Mr. Birbal Nath, .. Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*

2. To be referred to the Reporter or not? *no*

3. Whether their Lordships wish to see the fair copy of the Judgement? *no*

4. Whether the Judgment to be circulated among the other Benches. *no*

✓ 28/7/87

(BIRBAL NATH)
MEMBER(A)

Mr. Birbal Nath
(K.S.PUTTASWAMY)
VICE-CHAIRMAN

28/7/87

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH:NEW DELHI

O.A.Nos. 671 & 759/1986

DATE OF DECISION 29-7-1987.

Yog Dhian Piplani &
Mohan Lal Mehta

..APPLICANTS

(Shri Sant Lal, Advocate for Applicants)

v.

Union of India and others.

..RESPONDENTS

(Smt. Raj Kumari Chopra, Advocate for Respondents)

CORAM:

THE HON'BLE MR.JUSTICE K.S.PUTTASWAMY, VICE-CHAIRMAN

THE HON'BLE MR.BIRBAL NATH Member(A)

(Judgment of the Bench delivered by
Hon'ble Mr.Justice K.S.Puttaswamy, Vice-Chairman)

JUDGMENT

As the questions that arise for determination in these cases are common, we propose to dispose of them by a common order.

2. Applicants in O.A.Nos. 671 and 759 of 1986 started their career as Postal Clerks on 1-7-1956 and 19-7-1955 respectively. When they so joined service, the rule of seniority was regulated on the basis of the length of their service only, which was changed from 22-12-1959.

3. On the basis of that change, respondent No.4, who is common in these cases, was confirmed earlier and was given seniority over the applicants. Both the applicants and others challenged the same and urged for restoring their seniority over respondent No.4. On an examination of the same, the competent authority accepted their case, revised the earlier seniority drawn and had ranked the applicants seniors to respondent No.4. But, in allowing the same, the authority did not permit the

the stepping up of the pay of the applicants to the level of their junior and denied them the arrears of salaries. Hence, the applicants have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 for appropriate directions.

3. In separate but identical replies, the authorities have sought to support their orders.

4. Shri Sant Lal, learned counsel for the applicants, contends that when once the authorities had accepted the claims of his clients for seniority over respondent No.4, they were bound to re-fix the pay of the applicants and extend them all such financial benefits to which they were entitled to from time to time. In support of his contention Shri Lal strongly relies on a Division Bench ruling of this Tribunal in BHAKSHI RAM v. UNION OF INDIA (O.A.No.142/86 dated 28-5-1986).

5. Smt. Raj Kumari Chopra, learned counsel for the respondents in supporting the orders of the authority contends that the applicants cannot be allowed arrears for the periods they had not actually worked.

6. When once the authorities had accepted the claims of the applicants for seniority over respondent No.4 and re-fix their seniority over him also, then they cannot, on any principle, deny their claim for stepping up their pay to the level of their junior viz., respondent No.4. In this view, the orders made by the authorities denying the claim of the applicants for stepping up the pay of the applicants are clearly illegal and are liable to be quashed.

7. In Bakshi Ram's case, a Division Bench of this Tribunal consisting of Hon'ble Shri S.P. Mukerji, Member (A) and Hon'ble Shri C. Ramakrishna Rao, Member (J) have examined a similar claim for arrears of salary for periods for which a civil servant had

had not worked. On a detailed examination, the Division Bench had held that the denial of such arrears was impermissible and illegal. We are bound by the ruling rendered by the Division Bench in Bakshi Ram's case. Even otherwise, we do not find any justification to dissent from the view expressed by the Division Bench in Bakshi Ram's case as urged by Smt. Chopra. For the very reasons stated in Bakshi Ram's case, the claim of the applicants for arrears of salary has necessarily to be upheld.

8. In the light of the above discussion, we make the following orders and directions:

- (i) We quash Order No.RDH/4-159/Staff dated 26-6-1986 in O.A.No.671/86 and RDH/4-293/Staff dated 31-7-86 in O.A.No.759/86 and direct the respondents to refix the pay of the applicants as on 1-6-1974 to the level of their junior viz., respondent No.4.
- (ii) We also direct the respondents to make available all the financial benefits to which the applicants are entitled to from time to time on the basis of their re-fixation of pay from 1-6-1974.
- (iii) We direct the respondents to refix the pay of the applicants and extend them the financial benefits to which they are entitled to within a period of 3 months from the date of receipt of this order.

9. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

✓ 28/7/87

(BIRBAL NATH)
MEMBER(A)

Ms. Prakasham
(K.S.PUTTASWAMY) 28/7/87
VICE-CHAIRMAN

sr/np