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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 457/87

DECIDED ON : 04.02.1993

Jai Prakash Singh ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM : The Hon'ble Mr. P. C. Jain, Member (A)

The Hon'ble Mr. J. P. Sharma, Member (J)

Shri Sant Lal, Counsel for the Applicant

Shri P. P. Khurana, Counsel for the Respondents

J U D G M E N T (ORAL)

Hon'ble Shri P. C. Jain, Member (A) -

The applicant who was appointed as a Postal Assistant on 16.12.1948 and promoted to the Lower Selection Grade (for short LSG) in the pay scale of Rs.425-640 w.e.f. 5.7.1975 was posted as Sub Post Master, Nagina, District Bijnor on 30.11.1983 on which post he was entitled and allowed a special allowance of Rs.35/- per month. His grievance is that in view of his seniority he should have been posted Sub Post Master, Najibabad (Bijnor) which carried a special allowance of Rs.45/- per month. It is alleged that one Sheesh Ram who was much junior to him was posted w.e.f. 20.1.1984 as Sub Post Master, Najibabad and thus the applicant was deprived of the higher special allowance of this Rs.45/-. His other grievance is that w.e.f. 1.2.1985 one of the two posts in the Higher Selection Grade-II (for short HSG-II) in the

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scale of Rs.550-750 fell vacant on retirement of one Shri Balwant Singh on 31.1.1985 but instead of posting the applicant in HSG-II in that vacancy, one Shri Malhu Singh who was much junior to the applicant was posted to that post and as such he has been deprived of promotion to the post in the HSG-II. Though the applicant has claimed some other reliefs also in this OA, the same are not pressed before us.

2. Before we proceed further in this matter, we would like to record our appreciation for Shri Sant Lal, Advocate, agreeing to our request to assist the applicant in proper representation of the case.

3. The respondents have contested the OA by filing a reply to which a rejoinder has also been filed by the applicant. We have perused the material on record and also heard the learned counsel for the parties. The applicant has placed on record a seniority list of LSG cadre in the scale of Rs.425-640 in which the applicant's name appears at sl. no. 7. It is not disputed inasmuch as the respondents in their written statement have stated that six persons were senior to the applicant in the LSG cadre. Of these six senior persons, Shri Brij Lal at sl. no. 1, Shri Nav Behar Singh at sl. no. 3 and Shri B. L. Verma at sl. no. 6 had retired on superannuation in April, 1982, July, 1982 and January, 1983 respectively. Shri P.

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N. Khanna whose name appears at sl. no. 2 is shown to have been working on a post in HSG-II and as such the question of considering his claim for appointment to a post in LSG did not arise. Shri Anand Swarup Sharma at sl. no. 4 is said to have declined his posting to the post of Sub Post Master carrying a special allowance of Rs.45/- per month in view of the fact that he was due to retire on 31.7.1984. Similarly, Shri Balwant Singh at sl. no. 5 was working on one of the two posts of HSG-II at Dhampur. Accordingly, it is contended that the applicant was the seniormost person available for appointment to the post of Sub Post Master, Najibabad which carried a special allowance of Rs.45/- per month. It is further contended that the posting to such a post was to be done on the basis of seniority. Our attention has also been drawn to provisions of para 50 of the Post and Telegraphs Manual, Volume-4, 4th Edition. According to sub para (2) of para 50, in case of vacancies of more than one month's duration but not of more than four months' duration, officiating arrangement is to be confined to the officials in the office, sub-division, or division where the vacancy occurs. Both Najibabad and Nagina are said to be belonging to the Bijnor Postal Division. On the basis of these averments the applicant claims that he should have been offered the officiating arrangement for the post of Sub Post Master, Najibabad which carried a

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special allowance of Rs.45/- per month. It is conceded that sub para (3) of para 50 ibid permits the sanctioning authority in special circumstances in which strict adherence to the above procedure may not be practicable or desirable from the administrative point of view, to make in his discretion acting arrangements according to administrative requirements, but no such administrative requirement or order mentioning such administrative requirements has been placed on file.

5. The stand of the respondents in their reply is not categorical. What is stated is that the vacant post of Sub Post Master, Najibabad was filled by an approved LSG official available at the same station during the mid academic session, and that the applicant alone was not the senior official in the grade in the Bijnor Division on that date but three other officials senior to him and in all six officials senior to Sheesh Ram in the grade were available in the Division. The counter reply does not disclose as to why the applicant or the other officials senior to the applicant were not offered the vacant post of Sub Post Master, Najibabad. We are, therefore, of the considered view that denial of the posting to the post of Sub Post Master, Najibabad to the applicant in preference to his junior cannot be sustained.

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6. As regards the officiating chance of promotion to the post of HSG-II w.e.f. 1.2.1985 till the applicant retired on superannuation on 30.6.1985, the reply of the respondents does not show as to why the applicant was not considered for his posting to one of the two posts of HSG-II in Bijnor Postal Division when the post fell vacant on retirement on superannuation of Shri Balwant Singh and instead a person junior to the applicant was appointed thereto. In view of this, the claim of the applicant in this regard has also to be allowed.

7. In the light of the foregoing discussion, this OA is partly allowed in terms of the following directions :-

(1) The applicant shall be entitled to a difference of Rs.10/- per month as special allowance from 20.1.1984 to 31.1.1985 and also the allowances admissible thereon, *if any*.

(2) The applicant shall be deemed to have been appointed in the HSG-II in the scale of Rs.550-750 w.e.f. 1.2.1985 till he retired on 30.6.1985 and his pay shall be re-fixed accordingly.

(3) If the retirement benefits paid to the applicant are required to be re-worked out in
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accordance with the relevant rules on account of the direction as in (2) above, the same shall also be re-worked ^{out} and the arrears on this account shall also be paid to the applicant.

(4) The aforesaid directions should be carried out as expeditiously as possible but preferably within a period of four months from the date of receipt of a copy of this order by the respndents. No costs.

(J. P. Sharma)
Member (J)

(P. C. Jain)
Member (A)

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