

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 3057/2004

New Delhi, this the 11th day of July, 2005

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri L.R. Khurana
Son of Shri Ram Saran Khurana,
Working as Asstt. Supdt. Of Post Officers in the
O/o Pr. C.P.M.G, Delhi Circle, New Delhi.

R/o MPT 489 Sarojni Nagar,
Ne Delhi, address for service of notices
C/o Shri Sant Lal, Advocate CAT Bar
Room, New Delhi – 110 001.

...Applicant.

(By Advocate Shri Sant Lal)

Versus

1. The Union of India,
through the Secretary,
M.O. Communications & I.T. (Dept. of Posts)
Dak Bhawan, New Delhi-110 001.
2. The Pr. Chief Postmaster General, Delhi Circle,
Meghdoot Bhawan, New Delhi-110 001. ...Respondents.

(By Advocate Shri Rajeev Bansal)

O R D E R (ORAL)

By Mr. S.K. Malhotra, Member (A):

This OA has been filed by the applicant with the prayer that the impugned order dated 18.8.2003 and 31.5.2004 (Annexure A-1 and A-2) by which his claim for stepping up of pay with reference to junior has been rejected, may be quashed and set aside. He has also prayed that he may be granted the benefit of "Next Below Rule" of officiating promotion of ASPOs from the date his immediate junior was promoted vide order dated 14.8.1992.

2. The facts of the case in brief are that the applicant had joined as Postman in 1968. In 1970, he went on deputation to the Army Postal Service (APS) where he got promotion as Postal Assistant in 1974. He was promoted to the rank of J.C.O. w.e.f. 24.3.1986 in APS and he was given seniority in IPOs cadre of 1988

batch in his parent circle. In 1991, he submitted an application for his repatriation of his parent department but his request was not acceded to due to shortage of staff in the JCO cadre. He was imparted practical induction training of IPOs in March-April, 1992. It is stated that one, Shri Subhash Chand Gupta, IPO, who was junior to the applicant was promoted as Assistant Superintendent of Post Offices (ASP) on temporary and adhoc basis w.e.f. 14.8.1992. Although his appointment was shown against the leave arrangement, yet his promotion was against a clear vacancy, as he was never reverted. The applicant got reverted to his parent cadre and he joined his duty on 8.11.1993. He submitted representation to his department for appointment as ASPO, as some of his juniors had already been promoted on adhoc basis. However, his request was not acceded to. He was, however, promoted to officiate in ASPO cadre on temporary and adhoc basis w.e.f. 7.11.1994. He was later appointed on regular basis on this post on 19.4.1996 and his junior Shri Subhash Chand Gupta was promoted w.e.f. 30.6.1997. He submitted his application for ante-dating his promotion and also for stepping up of his pay to the level of his junior Shri Subhash Chand Gupta who was drawing pay of Rs.8300/- while the applicant was getting Rs.7900/- per month. His claim for stepping up of pay was, however, rejected on the plea that the junior was promoted on adhoc basis when the applicant was on deputation to APS. The applicant, however, claims that he is entitled to the "Next Below Rule" from the date his immediate junior was promoted. His request for adhoc promotion has also been denied on the ground that he had not completed induction training of IPOs. According to the applicant the delay in arranging the induction training of IPOs which was done during 1994, cannot be attributable to him. He has also cited two cases of S/Shri Rameshwar Dayal Sharma and Purshotam Lal who were appointed as ASPOs on adhoc basis in 1998, though they had not completed the induction training of IPOs (Annexure A-11).

3. In support of his case, the applicant has cited another identical case of Shri H.R. Verma who was also on deputation to APS and had filed OA 2474/2002, in which case, the Tribunal in its order dated 2.1.2003 had allowed the OA and respondents were directed to grant the benefit of "Next Below Rule" of proforma officiating promotion from the date his junior had been promoted (Annexure A-14). He has stated that the benefit of this order should be extended to him also.

4. The respondents have filed their counter reply in which they have taken the stand that he could not have been given adhoc promotion, as he had not undertaken the theoretical training (induction training) of IPO. He was allowed adhoc promotion after he had completed the training in September, 1994. He also could not be given adhoc promotion from the date of his junior was promoted, as the said promotion was only on adhoc and local basis, during which time the applicant was on deputation in APS.

5. We have heard both the learned counsel for the parties and have also gone through the pleadings available on record.

6. It is not disputed that the applicant is senior to Shri Subhash Chand Gupta who was given adhoc promotion as ASPO vide order dated 14.8.1992 (Annexure A-4). As against this the applicant was promoted as ASPO vide order dated 7.11.1994 (Annexure A-6). The stand taken by the respondents is that the applicant could not have been promoted from 1992 as the promotion given to his junior, Shri Subhash Chand Gupta was only on temporary and adhoc basis. This plea may be technically true but it cannot be accepted, as Shri Gupta was never reverted. The adhoc promotion was as good as regular promotion. The applicant who is senior cannot be denied promotion only on the ground that he was on deputation. This aspect of the matter has been considered in OA 2474/2002 in which it has been held that whenever a junior person in the parent department is awarded a higher scale or promotion, necessarily the senior person gets the benefit of "Next Below Rule," unless it happens to be one of the

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exceptions where he may not be found suitable for promotion. In this judgement, another case of Shri D.L. Yadav has also been cited in whose case similar benefit was extended. The case of the applicant is fully covered by this judgement which is stated to have been implemented by the respondents.

7. The second point raised by the respondents that he could not be promoted as he had not undertaken the induction training is also not valid in view of the fact that S/Shri Purushottam Lal, Rameshwar Dayal Sharma and Devinder Pal Singh were promoted on temporary and adhoc basis, without having completed the induction training which is evident from order dated 10.2.1998 (Annexure A-11). We, therefore, do not find any justifiable reasons as to why the same benefit cannot be extended to the applicant.

8. In view of the above, OA succeeds and is allowed. The impugned orders dated 18.8.2003 and 31.5.2004 (Annexure A-1 and A-2) are quashed and set aside. Respondents are directed to grant the benefit of officiating promotion of ASPO to the applicant from the date his immediate junior was promoted vide order dated 14.8.1992, with all consequential benefits, within a period of three months from the date a copy of this order is received by them. No costs.

Malhotra
 (S.K. Malhotra)
 Member (A)

S. Raju
 (Shanker Raju)
 Member (J)

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