

Central Administrative Tribunal, Principal Bench

O.A. No. 1548/2004

New Delhi this the 18th day of November, 2004

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Mr. S.A. Singh, Member (A)

Shri Chandra Pal Singh
S/o Late Shri Hari Ram working as
Assistant Accounts Officer (PAP Sec.)
Postal Directorate,
New Delhi
R/o S.133 Pandav Nagar,
Delhi-110 092 address for service
Notices is C/o Sh. 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.,
Department of Posts,
Dak Bhawan,
New Delhi-110001.
2. The Director of Accounts (Postal),
Civil Lines,
Delhi-1100054.

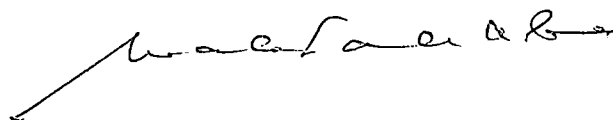
...Respondents

By Advocate: Shri K. Gupta.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicant seeks direction to the respondents to grant him promotion to the post of Assistant Accounts Officer w.e.f. 9.1.1998, i.e., the date on which his immediate junior was promoted to the said post, with all consequential benefits.



2. The facts are brief and not much in dispute. The applicant joined the respondent as Postal Assistant in 1983. He belonged to SC community. On 2.2.1995, he was promoted to the post of Junior Accounts Officer. His immediate junior in the seniority list, namely, Shri Sri Chand, however, was promoted to the said post on 31.3.1999. The applicant made representation which was accepted and the applicant was also promoted, at par with his junior colleague, to the post of Junior Accounts Officer w.e.f. 11.1.2000. In the meantime the date of promotion of Shri Sri Chand was antedated and he was granted promotion w.e.f. 9.1.1998 with all consequential relief. The applicant made representation for also ante-dating his date of promotion at par with his junior, but to no avail. Hence this OA.

3. The respondents in the counter-affidavit admitted that Shri Sri Chand was junior to the applicant in the seniority list but alleged that on account of some administrative lapse as SC was not noted against the name of the applicant in the seniority list, he was not given promotion. The mistake was corrected and the applicant was also promoted to the post of Assistant Accounts Officer w.e.f. 11.1.2000. In the meantime in compliance with an order of this Tribunal, Shri Sri Chand was given promotion to the post of Assistant Accounts Officer w.e.f. 9.1.1998. Since this order was personal to Shri Sri Chand, the benefit of this was not extended to the applicant.

4. In the rejoinder the applicant has reaffirmed his allegation and controverted the allegations of the respondents.

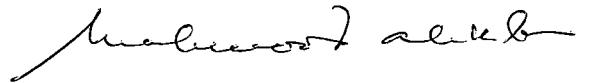
5. We have heard the learned counsel for the parties and perused the record.

6. Admittedly, the applicant was senior to Shri Sri Chand. On account of administrative lapses he was not given promotion, instead his junior, Shri Sri Chand was

Perusal and order

promoted to the post of Assistant Accounts Officer on 31.3.1999. On a representation made by the applicant, the respondents realized their mistake and have granted promotion to the applicant too, to the post of Assistant Accounts Officer w.e.f. 31.3.1999 at par with his immediate junior. In the meantime, the date of promotion of Shri Sri Chand was ante-dated from 31.3.1999 to 9.1.1998, yet the respondent did not grant promotion to the applicant also w.e.f. 9.1.1998. The only defence of the applicant is that this ante-dating of promotion of Shri Sri Chand was done in compliance with an order passed by this Tribunal which was an order in personem, benefit of which, could not be extended to the applicant.

7. We do not find any force in this contention of the respondents. Shri Sri Chand was promoted to the post of Assistant Accounts Officer, concededly on account of a mistake on the part of the respondents - office overlooking that the applicant also belonged to SC category like this junior Shri Sri Chand. The respondents rectified their mistake when it was brought to their notice by the applicant. In the meantime the date of promotion of Shri Sri Chand to the post of Assistant Accounts Officer was changed to 9.1.1998. Whether it was under the order of the Tribunal or for administrative reason, it will not be material since the date of promotion was not changed on account of any reason which was specific to Shri Sri Chand. The order of the Tribunal may be in favour of Shri Sri Chand, but the applicant, whose case was at much better footing, could not have been denied the benefit since his right for consideration of his name for promotion to the post of Assistant Accounts Officer before Shri Sri Chand is unquestionable. The respondents should not have driven the applicant to approach this Tribunal for a similar order which was passed in favour of Shri Sri Chand. The benefit of the order in favour

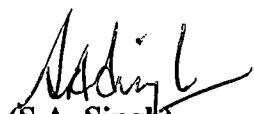


of Shri Sri Chand ought to have been extended to all similarly situated persons or whose case was much superior to Shri Sri Chand.

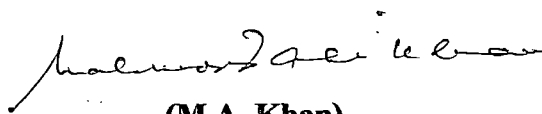
8. For the reasons stated above, the contention of the respondents has to be rejected.

There is no valid and legal basis for the respondents in not ante-dating the promotion of the applicant to the post of Assistant Accounts Officer to 9.1.1998 at par with his immediate junior Shri Sri Chand.

9. Accordingly, the OA succeeds. The respondents shall ante-date the promotion of the applicant to the post of Assistant Accounts Officer also from 9.1.1998 at par with his immediate junior in the seniority list, namely, Shri Sri Chand with all consequential benefits. The order shall be implemented within 2 months from the date of receipt of a certified copy of this order by the respondents. No costs.


(S.A. Singh)
Member (A)

Rakesh


(M.A. Khan)
Vice Chairman (J)