

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
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Date of Decision: 18.12.92

OA 576/92

GURU DUTT SHARMA

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON'BLE SHRI P.C. JAIN, MEMBER (A).

HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant

... SHRI SANT LAL.

For the Respondents

... Ms. JASVINDER KAUR,
proxy counsel for
SHRI JOG SINGH.

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant is employed as Postal Assistant and in this Application under Section 19 of the Administrative Tribunals Act, 1985, filed on 5.3.92, he has assailed the Memo dated 11.11.87 (Annexure A-1), issued by SSPO, Delhi, East Division, Memo dated 5.7.88 (Annexure A-2), issued by the office of PMG, Delhi with endoresement of SSPO dated 7.7.88, the letter dated 26.12.88 (Annexure A-3), issued by the SSPO, Delhi, East Division conveying the decision of PMG, New Delhi, and the Memo dated 27.6.90, issued by SSPO, Delhi Division (Annexure A-4). The grievance of the applicant is regarding

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non-grant of next higher scale of pay under One Time Bound Promotion Scheme. The applicant has prayed for the grant of the following reliefs :-

- "1) To quash the impugned orders;
- 2) To direct the respondents to grant the next higher scale of pay to the applicant from due date under T.B.O.P. Scheme;
- 3) To grant all consequential benefits including arrears of pay and allowances with interest at market rates;
- 4) To award the costs of the application; and
- 5) To grant such other reliefs as this Hon'ble Tribunal deem dit in the circumstances of this case."

2. The applicant joined Postal Service as Postman on 1.11.59 and he was promoted as Postal Assistant on 15.5.71. The case of the applicant is that he completed 16 years of service in the grade of Postal Assistant on 14.5.87 and was eligible to be placed in the Lower Selection Grade Rs.1400-2300 w.e.f. 15.5.87. The applicant has alleged that his several juniors have been granted the higher scale of pay from their due dates but the applicant has been denied the same benefit. The applicant was informed by the letter dated 11.11.87/27.1.88 (Annexure A-1) that the applicant has not been considered fit by the Director, Postal Services, for placement in the higher scale under Time Bound One Promotion Scheme. His representation to PMG was rejected by the letter dated 7.7.88 (Annexure A-2). The applicant thereafter submitted the petition to the Member (Personnel), Postal Services, and was informed by

the letter dated 26.12.88 by SSPO, Delhi, East Division, that his case was considered for higher scale of pay under T.B.O.P. and it was placed in the sealed cover on account of pending disciplinary/court case. The applicant made further representation and was again intimated by the letter dated 27.6.90 (Annexure A-4) that his case has been placed in the sealed cover on account of pending disciplinary/court case against him (Annexure A-4).

Therefore, no decision was communicated to the applicant though ^{he} had has also approached the Staff Adalat and submitted representation before it on 8.11.91.

3. The respondents in their reply stated that the applicant has completed 16 years of service as Postal Assistant on 14.5.87 and his candidature was placed before the DPC for promotion under One Time Bound Promotion Scheme. The DPC was held on 15.10.87/4.11.87 but the applicant was not found fit by the DPC. The next DPC considered the case on 25.10.88 and the applicant was considered fit. The applicant as such has been ordered to be placed in the higher scale of pay of Rs.1400-2300 under Time Bound One Promotion Scheme w.e.f. 25.10.88 vide Memo dated 11.6.92 (Annexure-I to the counter).

4. In the rejoinder filed by the applicant to the reply, it is stated that no reason has been given for treating the applicant as not fit for placement in the higher scale of pay. When the respondents have not denied the averments stated in para 5.3 of the application that the applicant has good record

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of service. The respondents in their counter however stated in reply to para 5.3 that it is a matter of record. Thus, in the rejoinder, the averment made in the OA has been reiterated.

5. We have heard the learned counsel for the parties at length and have perused the records as well as the personal file of the applicant, placed by the department before us at the time of hearing. We have also seen the minutes of the DPC of 15.10.87/4.11.87. The only dispute now is that the respondents have granted the higher scale of pay in LSG to the applicant by the order dated 11.6.92 w.e.f. 25.10.88 while the claim of the applicant is that he should have been granted the higher scale of pay when he completed 16 years of service w.e.f. 15.5.87. It is not disputed that the Time Bound One Promotion Scheme entitles the applicant to the higher scale under LSG w.e.f. the date he has completed 16 years of service but that is subject to satisfactory record of service. The applicant's case was duly considered by the DPC and he has not been recommended by the DPC in its minutes dated 4.11.87. Mere fulfilling the conditions of eligibility for placement in the next ^{is not sufficient;} higher scale of pay ^{is} to be judged on the basis of the service record. The contention of the learned counsel is that he has a good record of service and nothing adverse has been communicated to the applicant which could stand in the way of his placement in the next higher scale of pay. The applicant himself in para 5.3 has stated that the minor penalty was awarded to him by the Memo dated 29.9.87/6.10.87

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for recovery of Rs. 2,000/- from the pay of the applicant. The appeal against the same was also rejected. The applicant has challenged that punishment order by filing OA 430/88 before the Tribunal. The penalty for recovery may be no bar to promotion to the higher grade, as laid down in the Department of Personnel OM No. 21/5/70. Asstt. A dt. 15.5.1971, however, the DPC has already considered the matter on the basis of the service record of the applicant, the fact that the applicant was not found fit for placement in LSG for Time Bound One Promotion Scheme, then that finding of the DPC cannot be interfered with in as much as it is based on the performance of the applicant during his service of an earlier period.

6. As regards the principles of natural justice and reliance on the judgment of the Hon'ble Supreme Court in the case of S.N. Mukerji Vs. UOI (1991 (1) SLJ 3 SC), where it has been held that the authority exercising quasi-judicial function must record reasons for its decision, do not help the applicant. The minutes of the DPC have been perused and their recommendation is based on the evaluation of the service record of the applicant and the applicant was declared unfit. The reasons have been given by the respondents in their counter that the DPC did not find the applicant fit for placement in LSG.

7. The delay in passing the order has been because the applicant was facing the disciplinary inquiry, but now the benefit has been given to the applicant w.e.f. the date the DPC was held in 1988 i.e. w.e.f. 25.10.1988.

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8. The learned counsel for the applicant has also referred to a number of decisions, Sohan Lal Sharma vs. UOI (1990 (1) ATJ 450), K.P. Dohra vs. UOI (1990 (2) ATJ 610), and the case of New Bank of India vs. UOI (1991 (2) CSJ 109). None of these authorities help the case of the applicant because he has been duly considered by the DPC at the relevant time when he completed 16 years of service, i.e. in May, 1987. A perusal of the departmental record goes to show that the applicant was involved in a disciplinary case with loss of a TB containing 11 accounts books of 7.2.86 due to which he remained under suspension from 10.3.86 to 29.4.86. He was charge sheeted under Rule 14 of the CCS (CCA) Rules, 1965 on 8.5.86. He was awarded punishment of recovery of Rs.9,000/- vide order dated 29.9.87. Thus, from the records it appears that the DPC, which was held in 1987, has scrutinised the record of the applicant thoroughly.

9. In view of the above facts and circumstances, we find no merit in the present application and the ~~present~~ application is, therefore, dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J) 18.12.92

Clean
(P.C. JAIN) 18/12/92
MEMBER (A)