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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.163/93

Date of decision: 20.9.1993.

Shri Bharat Lal & Ors.

...Petitioners

Versus

Union of India through the
Secretary, Department of
Posts, New Delhi & Others

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri S.R. Dwivedi, Counsel.

For the respondents

Shri P.P. Khurana, Counsel.

Judgement
(Hon'ble Mr. I.K. Rasgotra)

We had heard Shri S.R. Dwivedi, learned counsel for the petitioners on 8.9.1993 and again on 13.9.93 when Shri P.P. Khurana, learned counsel for the respondents was also present.

2. The case of the petitioner is that respondent No.3 was promoted on 20.9.1968 from Group 'D' post to Group 'C' post (Sorting Assistant) due to his non-participation in the postal strike in September, 1968. Since he has been rewarded for his loyalty the petitioner claims that he being senior to respondent No.3 is entitled to promotion as Sorting Assistant w.e.f. 28.9.1968.

3. The respondents in their counter-affidavit have taken the stand that Shri Bharat Lal the petitioner No.1 had made a representation to the respondents, claiming promotion to Group 'C' post w.e.f 1.10.1968 on the ground that Shri Duli Chand, respondent No.3 was promoted from Group 'D' post to Group 'C' post during the strike period. His case was considered. It was then found that respondent NO.3 was not promoted from Group 'D' post to Group 'C' post on 28.9.1968. The representation of petitioner No.1 was,

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therefore, rejected vide letter dated 29.5.1992. Petitioner No.2 Shri Raja Ram was appointed in Group 'D' cadre only on 14.1.1969, he was not in service during the strike period of September, 1968. The petitioners, therefore, cannot claim promotion on the ground taken in the representation. The petitioner has further contended that according to the gradation list, respondent No.3 (Shri Duli Chand) was promoted from group 'D' post. The respondents have stated that mistakes have been committed in the gradation list, which was subsequently rectified in the gradation list corrected upto 1.7.1987. Regarding petitioner No.3 (Shri Mala Ram) the respondents have come on record to say that he was admittedly given an appreciation letter on account of good services rendered by him during the strike period. As regards the case award of Rs.75/- the respondents submit that this aspect is not on record. The representation of petitioner No.3 for promotion with reference to respondent No.3 also does not have any merit.

4. Shri P.P. Khurana, learned counsel for the respondents produced the service book of Shri Duli Chand, respondent No.3 in support of the stand of the respondents that respondent No.3 is a direct recruit to Group 'C'. On page 5 of the service book there is an entry to the effect "Vide SSRM memo No.B1/1-2 dated 26.9.68 Shri Duli Chand an approved departmental candidate is hereby appointed as a temporary sorter and attached to SRO Delhi against one of the existing vacancies in the scale of Rs.110-240 as a purely temp. measure."

On page 7 of the Service Book there is another entry which reads as under:-

"Vide SSRM memo No.B1/1-2 dt. 1.1.70 Sh. Duli Chand Non departmental candidate who was prov. selected and was prov. appointed in this Dn. as sorter is hereby appointed to officiate against

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existing regular temp. post of sorter in the pay scale of Rs.110-240 plus allowances admissible in the scale w.e.f 31.12.69 until further orders."

There is thus discrepancy in the two entries. In absence of any other material e.g. the appointment letter, it is not possible to conclude that respondent No.3 was a departmental candidate or a non-departmental candidate. In the personal file there is an office memo No.B1/1-2 dated 13.1.1970 which reads as under:-

"Non-departmental candidates, whose names are shown in the appended list, and who were provisionally selected and were provisionally appointed in this Division as sorters are hereby appointed to officiate against existing regular temporary posts of sorters in the pay scale of Rs.110/240 plus allowances admissible in the scale w.e.f. 31.12.60....."

5. The petitioners have filed rejoinder reiterating their stand taken in the O.A.

6. We have considered the submissions made by the learned counsel for the petitioner and respondents respectively and perused the record carefully. We are of the opinion that this petition is barred by limitation. The relief prayed for goes back to the year 1968. In fact, we have no jurisdiction in the matter. The petition is, therefore, barred by limitation and in that view of the matter we are not inclined to go into the merits for want of jurisdiction. The O.A. is accordingly dismissed, as barred by limitation and for want of jurisdiction. No costs.

B.S. Hegde
(B.S. HEGDE) 27/1/93
MEMBER(J)

San.

I.K. Rasgotra
(I.K. RASGOTRA) 27/1/93
MEMBER(A)