

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

O.A. No.666 of 1993 decided on 24.11.1998.

Name of Applicant : Nathi Ram Bhardwaj

By Advocate : Ms. Nitya Ramakrishnan

Versus

Name of respondent/s Union of India & others

By Advocate : None

Corum:

**Hon'ble Mr. N. Sahu, Member (Admnv)**

**Hon'ble Dr. A. Vedavalli, Member (J)**

1. To be referred to the reporter - Yes/No

2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

*N. Sahu*  
(N. Sahu)  
Member (Admnv)

*20/11/98*

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.666 of 1993

New Delhi, this the 24<sup>th</sup> day of November, 1998

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Hon'ble Mr. N. Sahu, Member (Admnv)  
Hon'ble Dr.A.Vedavalli, Member (J)

Nathi Ram Bhardwaj, s/o late Shri  
Mehtab, 821, Mehtab Bhawan, Chirag  
Delhi, New Delhi

-APPLICANT

(By Advocate Ms. Nitya Ramakrishnan)

**Versus**

1. Union of India the Secretary, Ministry of Communications, Sanchar Bhawan, New Delhi-110001
2. The Chief Postmaster General, Meghdoot Bhawan, Link Road, New Delhi.
3. The Director, Postal Services, Delhi Circle, New Delhi.
4. The Senior Superintendent Delhi Sorting Division, RMS Bhawan, Delhi-110006.

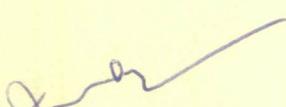
-RESPONDENTS

(By Advocate -None)

**ORDER**

By Mr. N. Sahu, Member (Admnv) -

The prayer of the applicant is that he should be promoted under the Biennial Cadre Review (in short 'BCR') Scheme in accordance with law. The impugned order is dated 20.11.1992 under which the competent authority cleared several Sorting Assistants in the next higher scale of Rs.1600-2660 under the BCR Scheme. But, at page 3 of the order the applicant was not recommended on the ground that he had not completed 26 years of qualifying service as on 1.10.1991. This qualifying service is a condition precedent under the BCR Scheme. The crucial date was taken as 1.10.1991, although



subsequent dates of review are 1.7.92, 1.2.1993 and 1.7.1993. It is contended that the applicant stood retired on 30.6.1993 and hence there should be no promotion after retirement.

2. The applicant's claim was that he was promoted in Lower Selection Grade (in short LSG) under Time Bound Promotion Scheme with effect from 23.6.1990. He stated that he was promoted to the clerical grade on 1.6.1965 after clearing the departmental examination. If this date is to be reckoned, he completed the period of 26 years of qualifying service on 30.5.1991. To this effect the applicant had filed a certificate from the Senior Superintendent which stated that he was eligible to officiate as a Clerk with effect from 1.6.1965 onwards continuously but for his deputation to his field service. A letter dated 19.9.86 was filed which was a certificate by the Audit Office stating that the applicant had completed qualifying service of 25 years and 9 months as on 31.3.1985. Finally, it is pointed out that the non-qualifying service of 2 years 10 months and 21 days was converted by subsequent orders either as on duty or as leave due and admissible. Except a period of 10 months all other period was regularised. He was placed under suspension during the year 1974 but the said suspension was revoked on 24.6.1974. This period of suspension on appeal from 20.3.74 to 24.6.74 was ordered to be treated as leave due and admissible.

*Arsh*

3. Under the BCR Scheme the important condition is 26 years of satisfactory service. The object of this scheme is to provide relief to the employees who have stagnated for a long time. The incumbents of existing posts would be entitled to draw pay in higher scale on completion of 26 years of service. It is also provided that suitable number of posts shall be created by upgradation by the Heads of Circle for this purpose. The first BCR shall be conducted before 31.12.1991 and orders issued before 31.12.1991. The subsequent dates are 1.7.92 and 1.1.93. The applicant had already availed of the first time bound promotion on completion of 16 years of service and, therefore, he is eligible for the BCR. There is no condition that he should reach the Clerk's grade and complete 26 years service. This is not a condition precedent and as the respondents have not been able to rebut the certificate dated 19.9.1986 under which the applicant was stated to have completed 25 years 9 months as on 31.3.1985, we have no other alternative except to allow the claim. A preliminary objection that simply because he retired, he would not be entitled to be promoted is not tenable. If in law, he is entitled to be promoted while he was in service and he was denied his promotion wrongly the courts would be justified in directing a reconsideration of his claim.

4. In the result, the O.A. is allowed. The respondents are directed to hold a review DPC within four weeks of the receipt of a copy of this order to

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reconsider the applicant's claim for BCR promotion to the next higher grade and grant him all consequential benefits in the light of our order and in accordance with law.

A. Vedavalli  
(Dr. A. Vedavalli)  
Member (J)

N. Sahu  
(N. Sahu)  
Member (Admnv)

rkv.