

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated : This the 4th day of June 2002.

Original Application no. 805 of 1996.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Ram Krishna Verma, S/o late Sri K. Singh,
R/o Village Tateri, Post Agarwal Mandi,
Distt. Meerut.

... Applicant

By Adv : Sri K.P. Srivastava

Versus

1. Union of India, through the Secretary (P),
Ministry of Communication,
New Delhi.
2. The Director General (Posts),
Dak Bhawan, New Delhi.
3. The Chief Postmaster General,
UP Circle, Lucknow.
4. Sri R.B. Singh, Sub-Postmaster,
Raniganj, Distt. Pratapgarh.
5. Sr. Supdt. of Post Offices,
Meerut, UP.

... Respondents

By Adv : Km. Sadhna Srivastava

O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member (A).

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed that direction be issued to respondents to promote him from Lower Selection Grade (in short LSG) Cadre to Higher Selection ^{WGrade} (in short HSG) cadre retrospectively from the date his junior Sri R.B. Singh

was promoted to HSG II cadre i.e 9.8.1989 with all consequential benefits. He has also prayed that respondents should be directed to consider and promote the applicant further to HSG I Cadre from the date his junior was promoted.

2. ^{h h} Facts giving rise to this OA, in short, are that the applicant was appointed as Postal Clerk on 1.2.1963 in Respondent's ^h establishment and was promoted to LSG ^h vide order dated 12.2.1982 against the vacancies for the year 1979-80. As per applicant, he came to know on 7.11.1994 through monthly journal 'Postal Sentinel' of October 1994 by going through the judgment of this Tribunal dated 27.4.1994 in OA no. 302 of 1993 in Laloo Lal Gupta Vs. Union of India and others that his juniors Sri R.B. Singh and Sri Mansoob Ahmad were considered and promoted from LSG cadre to HSG cadre II on 9.8.1989 and 9.3.1990 by Chief Post Master General (in short CPMG) UP Circle, Lucknow. The OA of Sri Laloo Lal Gupta was allowed and since R.B. Singh and Mansoob Ahmad are junior to the applicant he made representation on 10.11.1994 to CPMG, UP Circle Lucknow but the same has not been decided. He procured the promotion order of one Sri D.R. Prasad LSG official of Jaunpur who was promoted to LSG cadre on 1.7.1982 and was confirmed on 14.6.1993 with retrospective effect ^{h h} W.e.f. ^{h h} date 1.7.1982 Sri D.R. Prasad was promoted to HSG II cadre retrospectively w.e.f. 10.6.1988 by order dated 2.2.1994 (Ann 9). Even D.R. Prasad is junior to the applicant. Applicant again addressed CPMG, UP Circle Lucknow on 20.3.1995 quoting the judgment dated 27.4.1994 of this Tribunal in OA 302 of 1993 Laloo Lal Gupta Vs. Union of India & Ors. No response was received from CPMG, UP Circle, Lucknow. Then the applicant filed a representation before Member (Personnel) Postal Services Board on 5.7.1995. However, the grievance of the

applicant was not redressed. An irregular seniority list was prepared. Juniors were preferred and promoted on 17.5.1988, 9.8.1989, 9.3.1990 & 2.2.1994 as already pointed out earlier against the laid down procedure vide Director General Posts order dated 10.3.1986 that a combined gradation list of the LSG officials at circle level be maintained and promotion done on inter-se-seniority among the LSG cadre officials. CPMG, UP Circle, Lucknow, in compliance to the order dated 27.4.1994 of this Tribunal in OA 302 of 1993 issued the promotion order dated 14.7.1995 promoting Shri Laloo Lal Gupta, APM¹ (LSG) Allahabad into HSG Cadre retrospectively w.e.f. 9.8.1989 the date of promotion of junior R.S. Singh. CPMG, UP Circle, Lucknow, also issued promotion order on 19.2.1996 promoting Shri Bhola Nath I APM (Retd.) from LSG to HSG II w.e.f. 10.6.1988 the date of promotion of Sri R.K. Goswami, junior to Shri Bhola Nath. The claim of the applicant has not been considered, hence the OA which has been contested by the respondents by filing counter reply.

3. Shri K.P. Srivastava, learned counsel for the applicant submitted that the claim of the applicant is covered by the ratio laid down by this Tribunal in OA 302 of 1993 in Laloo Lal Gupta's case (supra). The action of the respondents is arbitrary and illegal because as per ^{order} of Director General Posts dated 10.3.1986 there should have been a combined gradation list of LSG officials at circle level and the promotion to HSG II should have been made according to inter-se-seniority. Besides by order of the Govt. dated 28.3.1988 the date of confirmation was delinked to reckon the seniority w.e.f. 1.4.1988.

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4. The learned counsel for the applicant further submitted that the case of the applicant is fully covered by the judgment dated 27.4.1994 of this Tribunal in OA 302 of 1993 Lallo Lal Gupta Vs. Union of India & Ors. He has also placed reliance on decision of this Tribunal Calcutta Bench in Similendu Chowdhary and others Vs. Union of India and others (1993) 23 ATC 461 in which it has been held that the benefit should be extended to similarly situated employees otherwise action of granting benefit to some of the employees and leaving out the rest will be discriminatory. Sri K.P. Srivastava also submitted that in C.K. Gopalkrishnan Vs. Union of India & Others (1998) 37 ATC 299, Ernakulam Bench of this Tribunal allowed the OA and gave the benefit of promotion to the applicant over his juniors. In another OA no. 1187 of 1992 Bholanath Vs. Union of India & Ors this Tribunal gave similar relief by order dated 8.3.1995. The learned counsel finally submitted that in service ^{in jurisdiction} there can be ^{only} one norm of confirmation or promotion in same cadre. Junior cannot be confirmed or promoted without considering case of his seniors. Any deviation is contrary to article 16 (1) as held by Hon'ble Supreme Court in Bal Kishan Vs. Delhi Administration and another¹ (1990) 1 SCJ 464.

4. Contesting the claim of the applicant Km Sadhna Srivastava learned counsel for the respondents submitted that the action of the respondents is correct and as per rules. There are two separate cadres in LSG one for general line and the other for accounts line and the applicant is trying to mix them which is against departmental rules. The inter-service seniority of LSG (general line) officials and LSG (Accounts line) officials was to be fixed on the

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basis of confirmation in respective grade. The applicant, being from general line was not confirmed in LSG general line due to non availability of permanent vacancy whereas

R.B. Singh, R.K. Goswami, D.R. Prasad and Ram Lekhan Singh belonging to LSG (Accounts Line) cadre were confirmed and therefore they were considered for promotion to HSG II in accordance with Director General Posts communication dated 20.7.1987 w.e.f. 9.8.1989, 17.5.1988, 10.6.1988 and 17.5.1988.

5. Km Sadhna Srivastava, further submitted that Sri Bhola Nath I of Allahabad Division was promoted to HSG II cadre wef 10.6.1988 by virtue of his seniority in compliance of order of this Tribunal in OA 1187 of 1998 (supra) and Laloo Lal Gupta of Allahabad Division was promoted of HSG II w.e.f. 9.8.1989 in compliance of order of this Tribunal in OA no. 302 of 1993 (supra) and the benefit of these judgments cannot be given to the applicant as these judgments are applicable in individual cases only and cannot be taken as a general rule.

6. We have carefully considered the submissions of the learned counsel for parties and have closely examined the records and pleadings. The main crux of the controversy is whether for promotion from LSG to HSG II, the date of promotion to LSG or the date of confirmation is to be taken into account. We find substance in the submission of the learned counsel for the applicant that by Director General Posts order dated 28.3.1988 the date of confirmation in LSG cadre was delinked to reckon the seniority w.e.f. 1.4.1988. Therefore, applying the Director General Posts instructions dated 20.7.1987 while ordering promotion of R.B. Singh, R.K. Goswami and D.R. Prasad after the issuance of Director General Posts instructions dated

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28.3.1988 and ignoring the applicant's claim is not correct on the part of respondents. Besides the respondents failed to maintain a combined gradation list of LSG officials at circle level.

7. We have also carefully gone through the order dated 27.4.1994 of this Tribunal in Laloo Lal Gupta's case (supra) and order dated 8.3.1995 in case of Bhola Nath I (supra) and we find that the controversy about the question whether date of entry into LSG cadre or the date of confirmation in LSG cadre is to be taken into account for promotion to HSG II has been resolved. We have no doubt that the date of entry into LSG cadre has to be taken for considering promotion to HSG II.

8. The applicant in Para 4.13 of OA has given the comparative chart of the applicant and others which is given below :-

i.	Date of Promotion in L.S.G.	Date of Promotion in H.S.G. II
i. R.K. Verma, Meerut	12.2.1982	Not considered.
ii. R.B. Singh, Allahabad	1.8.1983	9.8.1989
iii. R.K. Goswami, Allahabad	1.1.1985	17.5.1988
iv. D.R. Prasad, Jaunpur	1.7.1982	10.6.1988
v. Ram Lakhan Singh, Pratapgarh	12.5.1982	17.5.1988

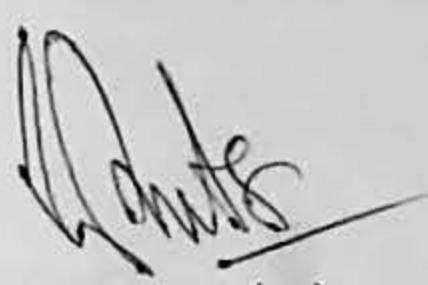
It is quite clear from the above that the applicant is senior to all the four viz R.B. Singh, R.K. Goswami, D.R. Prasad and Ram Lakhan Singh and ratio laid down in ^{in case of Laloo Lal Gupta (Supra)} by this Tribunal is squarely applicable in this case. The applicant is entitled to get relief.

9. In view of our aforesaid discussions the OA is allowed. We direct the Respondents no. 3 ie CPMG UP Circle

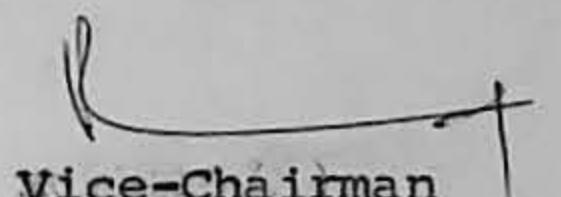
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Lucknow to consider the case of the applicant for his promotion to HSG II from the date when his juniors were promoted during 1988 and 1989. The applicant shall be entitled to all consequential benefits with retrospective effect including promotion to HSG I cadre. The pay of the applicant on promotion will be fixed notionally and he will not be entitled for any arrears. However, he shall be entitled to increase in the ~~retiral~~ ^h ^h benefits on the basis of his notional pay. This direction shall be complied with within a period of 4 months from the date of communication of this order.

10. There shall be no order as to costs.



Member (A)



Vice-Chairman

Dated 04/06/2002
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