

18

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 29th day of January 2002

Original Application no. 954 of 1996.

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

K.S. Pandey, S/o Sri G.P. Pandey,
R/o C-743, Guru Tegh Bahadur Nager,
Allahabad, working as Deputy Sub-Post Master,
Allahabad City Post Office,
ALLAHABAD.

... Applicant

By Adv : Sri H.S. Srivastava

V E R S U S

1. The Union of India through Director General,
Department of Posts,
NEW DELHI.
2. The Chief Post Master General,
U.P. Circle,
LUCKNOW.

... Respondents

By Adv : Sri D.S. Shukla

O R D E R

Hon'ble Mr. Justice R.R.K Trivedi, VC.

By this OA, under section 19 of the A.T. Act, 1985, the applicant has prayed for a direction to the respondents to promote the applicant w.e.f. 17.5.1996 to Highly Skilled Grade (in short HSG) II alongwith his juniors after determining the correct seniority of the applicant in Lower Skilled Grade (in short LSG) II,

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cadres as was done in the case of Lalloo Lal Gupta who is similarly placed, with all consequential benefits.

2. The facts in short giving rise to this OA are that the applicant joined Postal Department on 7.10.1964 as Time Scale Clerk which was later on designated as Postal Assistant. The applicant was promoted to LSG against 1/3 quota for 1979 in May 1982. The applicant got the said promotion after he successfully got ~~an order~~ ^{an order} interpretation in OA 1083/88. The applicant then filed OA no. 320/90 claiming promotion to HSG II from the date his juniors were promoted. This OA was disposed of finally by order dated 3.12.1991 by following orders:-

"The applicant in his rejoinder affidavit has updated the information given by the respondents and stated that his revised seniority has since been determined and his name has been shown at serial no. 750-A in the gradation list. The contention of the applicant is that promotion to H.S.G. -II should be from the combined list of Postal and Account wing and not separately from each of the two wings. It is seen from Rule 32-A of P & T Manual Vol. IV that gradation list of clerical staff in selection grade should be maintained according to each cadre in such branch. Further, Rule 32-C lays down that in said gradation list, the name of the officials of each class should be entered separately and in strict order of seniority. On the subject of seniority, Rule 32-E clarifies that subject to any special rules prescribed for any particular service, this seniority of officials in each cadre be linked and be filed according to his permanent appointment to that cadre. In view of this it is apparent that the applicant will have to take his position amongst officials of his cadre only and can not claim his seniority in the combined list of employees

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of both Postal and Accounts Wings. The respondents have clarified that the applicant has not been superseded by any of his juniors in the Postal wing and that he will be promoted to H.S.G.-II as soon as his promotion becomes due. Though some officials of the Accounts wing who were junior to the applicant have been promoted to H.S.G.-II, the applicant cannot claim promotion to the said grade in his own line. It seems that the applicant has rushed to the Tribunal rather prematurely. We are not satisfied that he has yet been superseded. The applicant cannot therefore, be stated to have been aggrieved as such and this application is, therefore, dismissed without any order as to costs. Before we part with this case, we would like to state that the respondents shall take care to ensure that the applicant is promoted to H.S.G. -II strictly in accordance with his seniority as determined in accordance with the extant rules."

From the aforesaid judgment it is clear that this Tribunal came to conclusion that ~~this~~^{it} was not satisfied that the applicant has yet been superseded ^{if} by any of his juniors. The Tribunal also observed that ^{if} any person junior to the applicant in Accounts wing has been promoted, the applicant cannot claim promotion. The Tribunal, however, directed that the respondents shall take care to ensure that the applicant is promoted in HSG-II strictly in accordance with his seniority as determined in accordance with the extant rules.

3. The grievance of the applicant is that he has not yet been promoted and thus he was compelled to file this OA in 1996. The claim of the applicant has been resisted by the respondents by filing counter affidavit. In para 17 of the counter affidavit, it has been stated that Shri Lalloo Lal Gupta was promoted to HSG-II cadre in



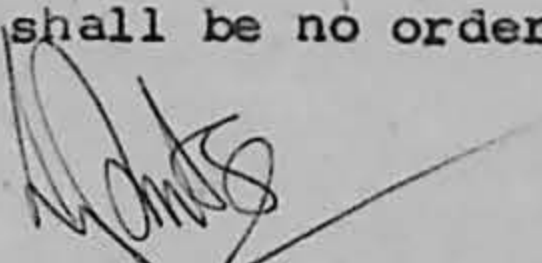
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compliance of the directions of the Tribunal in OA 302 of 1993, who is also senior to the petitioner in General line cadre. In that connection the representation of the petitioner was under consideration, but in the meantime ~~and for~~ he filed claim petition before the Tribunal and hence the matter has become subjudice and no action could be taken by the respondents. From the averment made in para 17 of the counter affidavit it is clear that the respondents are considerate and want to promote the applicant for which he may be legally entitled under rules, ^{the} which was also direction of this Tribunal in OA 320 of 1990.

4. For the reason stated above, we dispose of this O.A. with the direction to respondent no. 2 to consider the claim of the applicant for promotion in accordance with rules expeditiously, in any case within 4 months from the date copy of this order is filed.

5. There shall be no order as to costs.


Member-A


Vice-Chairman

/pc/