

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 13th day of February 2002.

Original Application no. 740 of 1998.

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

Sri Khushal Singh, S/o Sri K. Singh,
retired as Head Sorter, S.H. Division,
Saharanpur.

... Applicant

By Adv : Sri Ranjit Saxena

V E R S U S

1. Union of India through Ministry of Communication,
New Delhi.
2. Union of India through Chief post Master General,
U.P. Circle, Lucknow.
3. Union of India through Supdt. R.M.S., S.H.
Division, Saharanpur.

... Respondents

By Adv : Sri R.C. Joshi
Sri S. Mandhyan

O R D E R

Hon'ble Maj Gen K.K. Srivastava, AM

By this OA filed under section 19 of A.T. Act, 1985, the applicant has prayed that the direction be issued to the respondents to promote the applicant on the post of H.S.G. I w.e.f. 30.8.1991 and pay arrears of salaries upto 30.6.1996.

2. The facts, in short, giving rise to this OA are that the applicant joined as sorting Assistant in R.M.S.

...2/-

2.

on 20.3.1963. He was promoted ^{to} LSG cadre in the year 1982 and subsequently promoted in HSG II on 22.2.1990. The applicant belongs to SC category. As per applicant his juniors Sri MA Hashmi who was at sl no. 11 and Sri SC Kol who was at sl no. 14 in the gradation list of HSG II were promoted earlier than the applicant, though the applicant's name is at sl no. 10 in the same list of HSG II. Aggrieved by this, the applicant has filed this OA which has been contested by the respondents by filing counter affidavit.

3. Sri R. Saxena, learned counsel for the applicant has submitted that since the applicant is senior in the gradation list of HSG II the date of his promotion should be the same which has been granted to his juniors, Sri MA Hashmi and Sri SC Kol. He also submitted that on the date of DPC no punishment has been given to him and, therefore, he is entitled for promotion.

4. Sri S Mandhyan, learned counsel for the respondents submitted that the first DPC took place on 10.09.1992. On that date there ^{was} ~~was~~ two disciplinary cases pending against the applicant and the case of the applicant was ^{put} ~~up~~ into a sealed cover. ^{In} ~~The~~ first disciplinary case, the applicant was awarded penalty of withholding of next increment for 6 months vide order dated 13.5.1993 and in other case, the applicant was awarded penalty of withholding of next increment for 3 months vide order dated 30.3.1994. ~~an~~ ^{The} second DPC was held on 07.12.1994 and the applicant was not found fit for promotion due to unsatisfactory record of service. Sri Mandhyan further submitted that the applicant was served with major penalty chargesheet under Rule 14 of CCS (CCA) Rules 1965 on 1.10.1992, which resulted into compulsory retirement w.e.f. 29.11.1995. The D.P.C. dated 27.3.1996

3.

did not consider the case of the applicant as he already stood compulsory retired.

5. Sri S Mandhyan, learned counsel for the respondents finally submitted that CPMG, UP Circle, Lucknow allowed the appeal of the applicant and the order of compulsory retirement was set aside. The CPMG further directed for holding of review D.P.C.. The review DPC was held on 20.3.1997 which recommended the notional promotion of the applicant to the post of HSG I w.e.f. 27.3.1996, the date on which the earlier D.P.C. ^{was} met. Since the applicant has been given the due promotion, there should be no grievance by the applicant and the OA is liable to be dismissed.

6. We have considered the submissions of learned counsel for the parties and perused records.

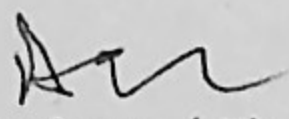
7. It is an admitted fact that in HSG II, the applicant was senior to Sri M.A. Hashmi and Sri S.C. Kol. The mere seniority in HSG II cadre does not entitle ^{in one} for further promotion, as further promotion depends upon recommendation of the D.P.C. which goes into details of the work and performance as well as the service records ^{in each individual}. The D.P.C. dated 10.09.1992 very correctly put the case of the applicant under sealed cover as on that date two disciplinary cases were pending against the applicant. The D.P.C. dated 07.12.1994 did not find the applicant fit for promotion. We do not find ⁱⁿ anywhere ⁱⁿ on the record that the applicant ever represented against the denial of promotion at that time. The mere fact that the applicant had protested ⁱⁿ against ⁱⁿ his non promotion through representation does not give

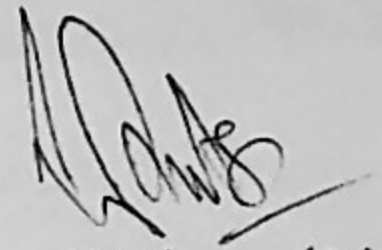
....4/-

4.

him the legal right to get the relief from this Tribunal at this belated stage. The claim of the applicant is barred by period of limitation and we find no good ground to interfere. Therefore, the OA is liable to be dismissed as time barred as the cause of action arose on 07.12.1994 when the D.P.C. declared him unfit for promotion and the present O.A. has been filed on 17.7.1998. However, the applicant has already been granted due promotion as per recommendation of the review D.P.C. and the case stands closed.

8. In view of the aforesaid discussion the OA is dismissed with no order as to costs.


Member (J)


Member (A)

/pc/