

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 18<sup>th</sup> day of August, 2000.

Original Application no. 1443 of 1998.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member

Nand Lal Prasad,  
S/o Sri Ram Badan Prasad,  
R/o House no. 447/254-H, Baghambir Housing Scheme,  
Allahapur, Allahabad.

... Applicant

C/A Sri O.P. Gupta

Versus

1. Chief Post Master General, U.P. Circle,  
Lucknow.
2. Director General Post and Telegraph,  
Dak Bhawan, New Delhi.
3. Union of India through Secretary,  
Ministry of Communication,  
Govt. of India, New Delhi.

... Respondents

C/Rs Km. Sadhana Srivastava



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O R D E R

Hon'ble Mr. M.P. Singh, Member-A.

By means of filing this OA under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought direction to the respondents to consider and grant him promotion to P.S.S. (Group 'B') Grade with retrospective effect i.e. from the date of his junior (Nand Lal Pandey) was promoted and has sought direction to quash the order dated 17.05.99 passed by D.G. Post and direct him to open sealed cover immediately. He has also sought direction to the respondents to grant him all consequential benefits of such promotion including arrears and seniority.

2. The case of the applicant as stated by him is working that while/as Sub Post Master at City Post Office, Allahabad, he was not considered and given promotion to the post of Postal Superintendent's service alongwith his juniors vide order dated 03.11.1995. He was suspended from service on 26.01.1995 and was issued a charge sheet on 24.03.1995. On completion of enquiry, the applicant was exonerated vide order dated 18.05.1998. Thereafter, the applicant gave several representations to D.G. Posts pointing out the illegality about non-consideration of his candidature fro promotion to the post of P.S.S. alongwith his juniors in 1995. These representations were rejected by the respondents. Aggrieved by this, he has filed this O.A.

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3. The respondents have contested the case and have stated that the applicant was considered by the D.P.C. for promotion to Postal Service Group 'B' in the year, 1995. One disciplinary case under Rule 14 and another under Rule 16 of the CCS (CCA) Rules, 1965 were pending against the applicant at that time. Therefore, the findings of the D.P.C. were kept in sealed cover and his name was not included in the select panel. However, his juniors were appointed to Postal Service Group 'B' as no disciplinary case were pending against them. The charge sheet issued to the applicant on 24.3.1995 was finalised on 18.5.1998 and he was exonerated of the charges. The charge sheet issued to the applicant on 9.3.1995 under Rule 16 was dropped vide order dated 13.9.1995 by Senior Post Master, Pratapgarh. However, on review, the Director Postal Services, Allahabad set aside the order dated 13.09.1995 and ordered denovo proceeding from the stage of issue of fresh charge sheet vide order dated 2.1.1996. In pursuance of this order, the charge sheet was issued to the applicant on 25.07.1997. This was finalised on 23.2.1998 and the applicant was awarded the penalty of censure. The appeal preferred by the applicant was rejected on 10.05.1999 by the Director Postal Services, Allahabad. Thus finding of the D.P.C. held in October, 1995 remained in the sealed cover.

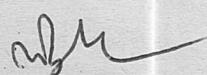
4. Heard learned counsel for the rival contesting parties and perused the record.



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5. The admitted facts of the case are that a D.P.C. to consider the applicant for promotion to the grade of P.S.S. (Group 'B') was held in October, 1995 and on that date, no departmental proceedings were pending against the applicant nor any charge sheet was served on the applicant on this date. Therefore, sealed cover procedure should not have been adopted in this case by the respondents. On the other hand, action should have been taken in respect of the applicant as per recommendation of the D.P.C. In the case of Union of India V. K.V. Jankiraman & Others, 1993 SCC (L&S) 387, the Hon'ble Supreme Court has held as under :-

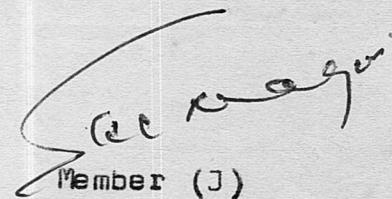
"32. In this case, no charge-sheet was served on the respondent-employee when the DPC met to consider the respondent's promotion. Yet, the sealed cover procedure was adopted. The Tribunal has rightly directed the authorities to open the sealed cover and if the respondent was found fit for promotion by the DPC, to give him the promotion from the date of his immediate junior Shri M. Raja Rao was promoted pursuant to the order dated April 30, 1986. The Tribunal has also directed the authorities to grant to the respondent all the consequential benefits. The Tribunal has further stated in the impugned order that its order would not mean that the disciplinary proceedings instituted against the respondent-employee should not go on. We see no reason to interfere with this order. The appeal, therefore, stands dismissed. In the circumstances of the case, however, there will be no order as to costs."



6. In view of the aforesaid facts and also the law laid down by the Hon'ble Supreme Court in K.V. Jankiraman's case, directions are required to be given to the respondents to consider the applicant for promotion to the grade of the P.S.S. (Group 'B') alongwith his juniors in 1995 and if found fit he should be given promotion with effect from the date his juniors were promoted.

7. In the light of the above discussion, the UA is allowed and the respondents are directed to convene a meeting of Review D.P.C. to consider the applicant for promotion to the post of P.S.S.(Group 'B') alongwith his juniors in 1995 and if found fit, he should be given promotion with effect from the date his juniors were promoted with all consequential benefits within a period of three months from the date of receipt of a copy of this order.

  
Member (A)

  
Member (J)

Dube/