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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1300 OF 2005

ALLAHABAD THIS THE 20th DAY OF November, 2006

HON'BLE DR. K.B.S. RAJAN, J.M.
HON'BLE MR. A. K. SINGH, A.M.

A. N. Bind,
Aged about 57 years,
Son of Late Shri Jokhan,
Resident of Village Gazipur,
Post Office Vijaipur,
District-Mirzapur.

.....Applicant

By Advocate : Shri Rakesh Verma

Versus

1. Union of India,
through Secretary,
Ministry of Communication (Department of Posts),
New Delhi.
2. The Director,
Postal Services, Allahabad Region,
Allahabad.
3. Superintendent of Post Offices,
Mirzapur Division, Mirzapur.
4. Shri Siya Ram Mishra,
Officiating Deputy Post Master,
Head Post Office, Mirzapur,
(substantiavely working as an Assistant
Post Master, Ganeshganj,
Mirzapur).

..... Respondents

By Advocate : Shri S. Singh

O R D E R

HON'BLE DR. K.B.S. RAJAN, J.M.

Brief facts of the case as contained in the OA
are as under:

(a) The applicant has been working as Assistant
Post Master with effect from 18.01.2004 and

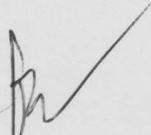


placed at serial no.205 (Annexure A-2) in the Circle Gradation List, whereas the respondent no.4 Shri Siya Ram Mishra has been placed at sl. No.206 in the aforesaid list.

(b) As one post of Deputy Post Master in Head Post Office, Mirzapur became vacant with effect from 01.01.2005, The applicant was directed to look after the aforesaid work in officiating capacity with effect from 03.02.2005 and thereafter vide an order dated 11.03.2005, (Annexure A-3). However, vide the impugned order dated 01.09.2005, respondent no.4 was ordered to work as Deputy Post Master, Head Post Office, Mirzapur holding the applicant to be junior than him vide Annexure A-1 (impugned).

© The applicant submitted a representation dated 02.09.2005 but the representation has been rejected confirming the petitioner to be junior than the respondent NO.4 and justifying the impugned order dated 01.09.2005 by merely showing the note about Rule-38 of P&T Manual Vol. IV without disclosing the detailed facts as to how Rule- 38 applies in the present case in the matter of fixation of seniority of the petitioner particularly when at the earlier occasion, the respondent NO.3 itself after allowing promotion as an Assistant Post Master (Lower Selection Grade) in the pay scale of Rs.4500-7000 and approving the same, also fixing the seniority of all such promoted incumbents in the lower selection grade placing the petitioner at Sl. NO.24 and at Sl. NO.25 to the respondent NO.4.

2. Resisting the claim of the applicant Respondents have stated that as per rule (38) of Postal Manual Vol. 4 of the Post and telegraph, an incumbent comes from another Division on transfer would be the junior





most in the Division where he has been transferred. The applicant and the respondents no.4 have been transferred from Jhansi and Fatehgarh Division respectively in Mirzapur Division. The applicant and the respondent no.4 joined the department on 24.03.1971 and 08.04.1971 respectively and they joined in Mirzapur Division on transfer on 04.08.1981 and 26.10.1972 respectively. But on the basis of Divisional Gradation List (from the date of joining in the Mirzapur Division), the applicant is junior to respondent no.4. Thus as per the Divisional seniority basis, the respondent no.4 should be given preference in promotion as per rule 38(2) (3) and Rule 50(2) and (3) of the Postal Manual Vol. 4.

3. The question to be decided is whether the applicant's seniority in the circle gradation list should be the base for promotion to the post of Dy. Post Master (HSG II) or Divisional Seniority list. This question is answered from the rule position as to what would hold good for promotion to this post. In so far as Asst. Post Master itself is concerned, the authority has taken into account the circle seniority list. In that event, for deputy postmaster, who is higher in rank, the seniority cannot be Divisional Gradation list but should ~~be~~ only be the circle gradation list. The provisions cited by the respondents i.e. Rule 38 or 50 of postal manual Vol. IV does not apply as the same talks only of seniority within a division. Provisions of Rule 50 could be

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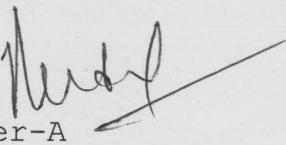
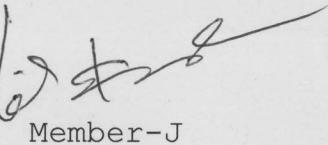
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pressed in service for officiating arrangement, at a circumstance when the senior as per such circle gradation list may not be readily available to perform the duties attached to the higher post.

4. It is stated that the private respondent is likely to retire on 31-12-2006 (D.O.B. being 01-01-1947).

5. The OA, therefore, succeeds. Order dated 01-09-2005 impugned is hereby quashed and set aside. It is declared that without reverting the private respondent (No. 5), the authorities are directed to consider the applicant for promotion to the post of Dy. Post Master (HSG II) on officiating basis from 01-01-2007 till regular selection is made. If promotion is made posterior to 01-01-2007, the promotion from 01-01-2007 should be notional.

6. Under the circumstances, there shall be no order as to cost.


Member-A
Member-J

/ns/