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Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1672 of 1986

{Original Civil Suit No.40 of 1983 )  
(of the Court of Munsif Sadar, Faizabad)

Ram Nihore Lal .... Plaintiff-Applicant

Versus

Union of India & Others .... Defendants-Opposite Parties.

Hon. Justice K.Nath, V.C.

Hon. K.J. Raman, A.M.

(By Hon. Justice K.Nath, V.C.)

The Regular Civil Suit described above is before us under Section 29 of the Administrative Tribunals Act XIII of 1985 for certain promotions and for monetary benefits flowing therefrom.

2. The plaintiff-applicant was working as a Head Clerk in the Office of the Supdt. Post Offices, Azamgarh in 1958. An Athleetic Meet took place in December, 1958. It was alleged that the plaintiff-applicant was responsible for clandestine participation of one Ram Chandra Singh a copyist in the Collectorate impersonating as R.P. Rai of the Postal Department. A Departmental Enquiry was contemplated and by an order dated 10.1.59 he was placed under suspension. There appears to have been some formal defect in the institution of the departmental proceedings with the result those proceedings had been quashed in Civil Suit and confirmed by the District Judge in appeal against which Second Appeal was dismissed on 15.4.68 by the High Court.

3. Another Disciplinary Authority/Inquiry Officer was appointed on 8.3.69. The Inquiry Officer found the charges not proved. The Disciplinary Authority however partially disagreed and awarded a penalty of withholding one increment by an order dated 7.12.71. The plaintiff-applicant filed Writ Petition No.2012 of 1972 for quashing that punishment. By judgement dated 22.9.76, the Hon'ble High Court quashed the punishment order dated 7.12.71.

4. In the meantime plaintiff-applicant had been reinstated from September, 1970.

5. The plaintiff-applicant's case is that despite representations from time to time he had not been given due promotions to the Higher Selection Grade (with effect from 7.7.61), Postal Supdt. Service Class II (from 1.1.63) and finally to Class I Senior Scale (from 20.7.72). It appears that the final communication rejecting the representation was issued on 25.3.82. He then filed the present Suit on 10.2.83.

6. It is not disputed that the promotion from the post of Head Clerk to the post of Higher Selection Grade (HSG) was governed by the criterion of seniority subject to fitness while further promotion to PSS Grade II and Class I Senior Scale is on the criterion of merit-cum-seniority. It is also clear that the plaintiff-applicant remained under suspension from 10.1.59 to September, 1970. The plaintiff-applicant retired on 31.8.80 (vide para 42 of the plaint). The plaintiff-applicant's grievance is that after his suspension had been revoked and he was reinstated, he was entitled to be considered for promotion to the

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various grades in question with effect from due date. To the Higher Selection Grade promotion is sought with effect from 7.7.61 on the ground that the persons junior to him had been promoted; to the higher post it is claimed on the grounds of Rules as may be applicable.

7. It appears that the case was considered by the D.P.C. in 1978 and the plaintiff-applicant was promoted to the Higher Selection Grade and posted as Postmaster with immediate effect.

8. The plaintiff-applicant's case is that according to the Rules when he was due for promotion to Higher Selection Grade on 7.7.61 and he was under suspension his case should have been examined by the D.P.C. and the results should have been placed in a sealed cover so that in course of time when the plaintiff-applicant's suspension was revoked and he was reinstated the result contained in the sealed cover should have been examined and appropriate orders for the plaintiff-applicant's promotion from due date should have been passed. The D.P.C. met in 1962.

9. The case of the opposite parties' is that since the plaintiff-applicant was under suspension there was no question of giving him any promotion till then even notionally in the H.S.G. Cadre. It was said that there is no basis for the plaintiff-applicant's contention that the plaintiff-applicant's case was examined in 1962 by the Selection Committee and the result was kept in a sealed cover. It was added that

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the file containing the result of the D.P.C. for 1962 was not readily available in the Department. It is clear therefore that while some D.P.C. met in the year 1962, it had not considered the case of the applicant. We see no reason why the case of the applicant could not have been considered with effect from the due date if it fell in the year 1961 by the D.P.C. which met in 1962. It is a different matter that the decision of the D.P.C. may not have been followed up by a regular order of promotion or otherwise in view of the suspension.

10. In view of the findings in the disciplinary inquiry exonerating the plaintiff-applicant of the charges and the ultimate orders of the Hon'ble High Court passed on 22.9.76 quashing the penalty order dated 7.12.71 ~~merely~~ withholding the increment of the plaintiff-applicant, the suspension of the plaintiff-applicant from 10.1.59 to September, 1970 could not bring any disadvantage to him in the matter of his rights and benefits of service. Even after the decision of the Hon'ble High Court when the D.P.C. considered the case in the year 1978, it was the duty of the D.P.C. to consider it in the light of the facts and service record of the plaintiff-applicant which may have stood on the due date namely when the D.P.C. of 1962 met or when the person next junior to the applicant was promoted to the H.S.G. It is not for us to say whether or not the promotion of the

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plaintiff-applicant to H.S.G. should have accrued from 7.7.61 because that is a matter to be decided by the appropriate authority after examining the record of the plaintiff-applicant and other materials and Rules.

11. So far as further promotion to P.S.S. Class II and Class I Senior Scale are concerned, they have to be considered only after the initial promotion to the H.S.G. on the criterion of merit-cum-seniority as both these scales are admittedly governed by method of selection.

12. The Suit is decreed to the extent that the defendants-opposite parties shall consider the case of promotion of the plaintiff-applicant to the High Selection Grade from due date, that is the date when the person next junior to the plaintiff-applicant was promoted to that grade and, having done so, the defendants-opposite parties shall further consider the case of plaintiff-applicant's promotion to P.S. S. Class II and Class I Senior Scale with effect from due dates in accordance with the applicable Rules. If the plaintiff-applicant is found entitled to promotions from particular dates, the opposite parties shall also pay his salary from the appropriate dates and shall revise his pension and other retirement benefits subject to adjustment of such amount as may have already been paid to him.

13. The defendants-opposite parties shall comply with the direction within six months from the date of receipt of the copy of the order. Parties shall bear their costs

*Harman Singh*  
Member (A)

*P.*  
Vice Chairman

Dated the 16th Jan., 1990.  
RKM