

APR 1986

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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration no. 451 of 1986.

Jeewan Ram

applicant.

Vs.

Union of India (through
Secretary Department Post
and Telegraph New Delhi and
two others.

Respondents.

Hon'ble D.S.Misra,A.M.
Hon'ble G.S.Sharma,J.M.

(Delivered by Hon'ble D.S.Misra)

This is an application under Section 19 of the
Administrative Tribunals Act XIII of 1985 against the order
dated 7.11.1981 passed by Director Postal Services Head Quarters
superseding the applicant for promotion to higher selection
grade II.

2.The applicant retired as Sub Post Master at
Badlapur,Jaunpur U.P.. He entered the department on 1.6.49
and retired from service on 31.7.83 on attaining the age of
superannuation. In the year 1978 a memo of statement
of imputation dated 6.3.78 was served on the applicant,while
he was working as SPM Gaura Badshahpur(copy annexure 4).
The applicant was again served with a memo of statement
of imputation dated 3.4.78 .Both these cases were decided
and penalty of stoppage of increment for 3 months and one
year without future effect was imposed respectively under
memo dated 21.3.78 andd 19.4.78(copy annexures 5 and 6).While
Working as APM Jaunpur Head Post Office, the applicant
was served with three statements of imputation and these cases
were decided imposing penalty of stoppage of increment for
6 months,3 months without future effect and a censor respectively.

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(copies annexures 7,8 and 9). In the year 1980, the case
of the applicant was considered for promotion to the HSG II
Grade but he was passed over due to his unsatisfactory record
of service (copy annexure 12). The applicant preferred appeals
against the punishment orders to appellate authority and these
appeals were decided and the applicant was not exonerated
in any of the appeals but the punishment was reduced. The
applicant was, therefore, not allowed to cross the efficiency
bar. The applicant preferred an appeal to the Director Postal
Services Allahabad against the order of not permitting the
applicant to cross the efficiency bar which was allowed vide
letter dt. 18.5.85 (copy annexure 13). This appeal was decided
after the retirement of the applicant and monetary benefits
were given to him. The applicant preferred a petition
to the Post and Telegraph Board for restoration of promotional
benefit of HSG II which has been rejected after due
consideration on 5.5.86. The present application is against
this order of the P&T Board denying the applicant the promotional
benefit of H.S.G.II, cadre with retrospective effect. The applicant's
contention is that as he was allowed to cross the efficiency
bar, he should have been given the promotion to the next higher
grade.

3. In the reply filed on behalf of the respondents,
it is stated that in the selection held in the year 1980-81,
the applicant was not found fit for promotion to HSG II
on account of unsatisfactory record of service and this was
mentioned in the order dated 7.11.1981. The applicant never

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preferred an appeal against this order within the prescribed period and the present application has been filed after 3 years of his retirement and is thus highly belated and deserves to be dismissed. It is also stated that the applicant was allowed to cross the efficiency bar on account of some technical flaw after his retirement and the adverse entries on the basis of which he was superseded have not been expunged.

¶. We have heard the arguments of the learned counsel for the parties. Learned counsel for the applicant contended that the applicant was never informed about his being stopped at the efficiency bar which was due to him w.e.f. 1.6.83. Inspite of his various representations to concerned authorities, no attention was paid to his request. He had filed copy of a letter dated 4.4.84 (copy annexure 2) from the Superintendent Post Offices Jaunpur Postal Division which is in reply to his application dated 21.3.84. In this letter, the applicant was informed that his case for crossing the efficiency bar was considered, but he was not found fit to cross the efficiency bar in view of his unsatisfactory record of service. The applicant appears to have made an appeal to the Director Postal Services, who ordered that the order withholding the efficiency bar of the applicant was arbitrary and the same was also not communicated to the applicant. The order of the DPS stipulated that the applicant (Jiwan Ram) shall be allowed to cross the efficiency bar from the due date. The Superintendent Post Offices Jaunpur Division passed an order dated 10.7.85 permitting the applicant to cross the efficiency bar w.e.f. 1.6.83. The contention of the learned counsel for the applicant is that even in the year 1981, the applicant was fit for promotion to the higher grade. However, no documentary evidence has been produced in support of this contention. As against this, the respondents have given

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details of the various punishments inflicted on the applicant for various lapses on his part in the performance of his duty. The applicant has not contested these allegations of the respondents. The applicant's request to P & T Board for being given the promotional benefit with retrospective effect has been rejected by the Board on 5.5.86. The applicant's request for being given promotional benefit with retrospective effect is based on the ground that since he was found fit to cross the efficiency bar w.e.f. 1.6.83, he should be deemed to be fit for being promoted w.e.f. 7.11.1981, the date from which his juniors were promoted to H.S.Grade II.

4. We have considered the matter. The respondents have contended that the applicant did not make any representation regarding his supersession by his juniors when the order dt. 7.11.1981 not considering him fit for promotion was passed by the competent authority. He does not appear to have made any such representation before his retirement on 31.7.83. We are, therefore, of the opinion that the claim of the applicant for promotion w.e.f. 7.11.1981 is not based on any material fact or law in support of his contention. However, the case of the applicant for promotion to H.S.Grade II should have been considered when he was allowed to cross the efficiency bar w.e.f. 1.6.83 and we are of the opinion that he is entitled to be considered for promotion to H.S.Grade II w.e.f. 1.6.83, but his representation to D.G.Post has been rejected by a non-speaking order vide letter dt. 4.4.86. As the relevant rules governing the promotion of the applicant have not been produced before us, instead of making any further comments, we direct the respondent to reconsider ^{the be} ~~his~~ ^{of the applicant} representation in the light

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of the above observations.

The application is disposed of accordingly and
the parties shall bear their own costs.

Bhima ----- Zulmarie
A.M. 15.9.87 J.M. 15.9.87

JS/15.9.87