

22

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

1) O.A.269/87

J.M. Singh

v/s.

.. Applicant.

Union of India.

.. Respondent

2) O.A.269/87 (A)

Nand Kishore

.. Applicant

v/s.

Union of India.

.. Respondents.

3) O.A.269/87 (B)

R. Hussain

.. Applicant

v/s.

Union of India.

.. Respondent

4) O.A.269/87 (C)

R.L. Sharma

v/s.

Union of India.

.. Applicant

.. Respondent

5) O.A.269/87 (D)

Giriraj Kishore

v/s.

Union of India.

.. Applicant

.. Respondent.

6) O.A.269/87 (E)

Badri Singh

v/s.

Union of India.

.. Applicant

.. Respondent.

7) O.A.269/87 (F)

Ram Bilash

v/s.

Union of India.

.. Applicant

.. Respondent.

8) O.A.269/87 (G)

Ganeshi Lal

v/s.

Union of India.

.. Applicant.

.. Respondent.

9) O.A.269/87 (H)

S.N. Sharma

v/s.

Union of India.

.. Applicant.

.. Respondent.

10) O.A.269/87 (I)

Amir Chand

.. Applicant.

v/s.

Union of India.

.. Respondent.

11) O.A.269/87 (J)

Gyani Ram

.. Applicant.

v/s.

Union of India.

.. Respondent.

12) O.A.269/87 (K)

S.C. Agarwal

.. Applicant.

v/s.

Union of India.

.. Respondent.

13) O.A.269/87 (L)

B.L. Sharma

.. Applicant.

v/s.

Union of India.

.. Respondent.

Coram : Hon'ble Vice Chairman Shri U.C. Srivastava.
Hon'ble Member (A) Shri A.B. Gorthi.

ORAL JUDGMENT :

DATED : 17.5.1991.

X PER : Hon'ble Shri U.C. Srivastava, Vice Chairman X

These 13 cases involve identical questions and as such are being disposed of together. The applicants of these petitions are Sorting Assistants and all of them it appears that completed 16 years of service on 30.11.1983 and became entitled to be promoted in LSG Cadre of Rs.425-640 w.e.f. 30.11.1983 as per one-time bound promotion which was introduced by Director General of Posts & Telegraphs Department, New Delhi vide its Memo dtg. 17.12.1983. As the applicant's case was not

...3..

A23

considered by the Departmental Promotion Committee then, who was considered only from 4.12.1984 they were promoted w.e.f.

that date.. The applicant approached this Tribunal complaining

that their promotion of latter date was un-warranted and as a

matter of fact, the matter of that they were entitled to promoted with effect

from 30.11.1983 and the wrongful declaration as affected are

being will effect their pensionery and other benefits apart from seniority. It appears that there ~~appears~~ to some disputes

regarding overtime allowance and according to the applicants,

continious work was taken but they were not ~~given~~ get their overtime

allowance and consequently their working capacity had decreased.

A memo was issued to all these applicants on 26.4.1983 informing

them that it was proposed to take action against them ~~under~~ by Rule 6

of CCS (CCA) Rules 1965 and they were given an opportunity to

make such an representation as they ~~wish to make~~ made against same and

incase the representation could not be submitted within 10 days

it will be presumed that they have no representation to make. The

charge obvious, against them was ~~resulted~~ to participate in

un-warranted agitation as Government extend other employees for

conceded

consulted action of refusing overtime duty for the period from

17.12.1983 to 21.3.1983 as ordered by the Competent Authority.

which resulted in cessation of substantial retardation of smooth

work flow causing dislocation of service, ~~contention~~ ^{deletion of work} made and

delay delivery to the members of public. The applicants did not

submit their replies with ^{in the stipulated} period and submitted their reply ~~in~~

(A2/4)

only in the month of December 1983 and the Departmental proceeding, it appears were also delayed and all of them were punished ~~and awarded~~ by order dtd. 23.5.1984. The grievance of the applicant, is that Departmental Proceedings were ~~undoubtedly~~ ^{L 2} pending ~~but~~ ^{L 2} ~~their~~ ^{L 2} because of the promotions could not have been held up and they should have been promoted to ~~the duty~~ w.e.f. 30.11.1983. These applicants who were not allowed promotions in the higher scale of Rs.425-554 under the time bound scheme due to their disciplinary proceedings pending against them ~~order~~ ^{ought} to be promoted to the time bound scheme from the date noted against them in 1984. In the written statement, ^{it} which has been stated that the target for promotion in time bound scheme was those who were completed 16 years of service before 30.11.1983, as disciplinary action was pending against the applicant, which was initiated in the month of March 1983. ~~but~~ ^{and} the target date and question of their replies ^{was} received after 30.11.1983, as these officials were not found fit for the promotion in the time bound scheme on 30.11.1983. The departmental promotion committee ^{later and} considered their case, as they were found eligible and they were subsequently promoted. Obviously because of ⁱⁿ disciplinary proceedings promotions could not be held but ⁱⁿ the ~~the~~ ^{the} departmental proceedings were pending ^{because} and the applicant, have delayed the matter. They were not considered fit for promotion. The department in the circumstances could have considered that on that date because of the pendency of the case which had not

(1/2)

become final they were not fit. The department also delayed the matter and gave him ~~latter~~ censure entry and ~~latter~~ stay. Obviously the only sincere entry was ultimately given to them subsequently as ~~they were~~ found as fit for earlier promotion they were promoted on a latter date. The contention on behalf of the applicant is that ~~in any~~ view of the matter even if they are there is no such order and censure entry ~~have~~ not been made or the promotion they were wrongly deprived the promotion on 30.11.1983, they are entitled to notional promotion from the date the others ~~were~~ junior ~~who~~ were promoted on 30.11.1983 and in case they get their seniority by notional promotion, the additional monetary benefit for which they are entitled ~~which has been snatched from them~~ ~~or they snatched in~~ ~~the restoration by the applicant~~. So far the date of promotion is concerned we do not find any ground ~~in~~ to interfere ~~in~~ the same but in view of the fact ~~applicant has been~~ approached the ~~Department~~, ~~and the Department~~ ~~definite case~~ for their cases for notional promotion w.e.f. date ~~the~~ juniors were promoted, ~~may be considered~~ and in case the ~~Department~~ who finds that their prayer is justified ~~there~~ appears no reason ~~for~~ ^{why} the department will ~~not~~ grant the same.

With the above observations and directions the application are otherwise dismissed.

Signature
(A.B. GORTHI)

MEMBER (A)

Signature
(U.C. SRIVASTAVA)

VICE CHAIRMAN.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

(1) O.A. 269/87

J.M. Singh

Applicant.

vs.

Union of India

Respondents.

(2) O.A. 269/87(A)

Nand Kishore

Applicant.

vs

Union of India

Respondents.

(3) O.A. 269/87(B)

R. Hussain

Applicant.

vs.

Union of India

Respondents.

(4) O.A. 269/87(C)

R.L. Sharma

Applicant.

vs.

Union of India

Respondents.

(5) O.A. 269/87(D)

Giriraj Kishore

Applicant.

vs.

Union of India

Respondents.

(6) O.A. 269/87(E)

Badri Singh

Applicant.

vs

Union of India

Respondents.

(7) O.A. 269/87(F)

Ram Bilash

Applicant.

vs.

Union of India

Respondents.

(8) O.A. 269/87(G)

Ganeshi Lal

Applicant.

versus

Union of India

Respondents.

(9) O.A. 269/87(H)

S.N. Sharma

Applicant.

versus

Union of India

Respondents.

(10) O.A. 269/87(I)

Amir Chand

Applicant.

versus

Union of India

Respondents.

(11) O.A. 269/87(J)

Gyani Ram

Applicant.

versus

Union of India

Respondents.

(12) O.A. 269/87(K)

S.C. Agarwal

Applicant.

versus

Union of India

Respondents.

(13) O.A. 269/87(L)

B.L. Sharma

Applicant.

versus

Union of India

Respondents.

Hon. Mr. Justice U.C.Srivastava, V.C.

Hon. Mr. A.B. Gerthi, Adm. Member.

(Hon. Mr. Justice U.C.S, V.C.)

These 13 cases involve identical questions and as such are being disposed of together. The applicants in these petitions are Sorting Assistants and all of them it appears completed 16 years of service on 30.11.1983 and became entitled to be promoted in LSG Cadre of Rs 425-640 w.e.f. 30.11.1983 as per one-time bound promotion which was introduced by Director General of Posts & Telegraphs Department, New Delhi vide its Memo dated 17.12.1983. As the applicants' case was not considered by the Departmental Promotion Committee then, who considered it only from 4.12.1984 they were promoted w.e.f. that date. The applicant approached this Tribunal complaining that their promotion on latter date was unwarranted and as a matter of fact, they were entitled to be promoted with effect from 30.11.1983 and the wrong-
ful declaration will effect their pensionery and other benefits apart from seniority. It appears that there were some disputes and regarding overtime allowance and according to the applicants, continuous work has taken but they were not given their overtime allowance and consequently their working capacity had decreased. A memo was issued to all these applicants on 26.4.1983 informing them that it was proposed to take action against them under Rule 6 of CCS(CCA) Rules, 1965 and they were given an opportunity to make such representation as they wish to make against same and in case the representation could not be submitted within 10 days it will be presumed that they have no representation to make. The charge obviously against them was that they resorted to participate in unwarranted agitation and inciting other employees for

concerted action of refusing overtime duty for the period from 17.12.1983 to 21.3.1983 as ordered by the competent authority which resulted in cessation of substantial retardation of smooth work flow causing dislocation of service, detention of mails and delayed delivery to the members of public. The applicants did not submit their replies within the stipulated period and submitted their reply only in the month of December 1983 and the Departmental proceedings it appears were also delayed and all of them were punished by order dated 23.5.1984. The grievance of the applicants is that Departmental proceedings were undoubtedly pending but their promotions could not have been held up and they should have been promoted w.e.f.30.11.1983. These applicants who were not allowed promotions in the higher scale of Rs 425-554 under the time bound scheme due to their disciplinary proceedings pending against them ought to be promoted to the time bound scheme from the date noted against them in 1984. In the written statement, it has been stated that the target for promotion in time bound scheme was those who ~~were~~ had completed 16 years of service before 30.11.1983 and as disciplinary action was pending against the applicants which was initiated in the month of March, 1983 before the target date and since their replies were received after 30.11.1983, these officials were not found fit for the promotion in the time bound scheme on 30.11.83. The departmental promotion committee considered their case later and/they were found eligible they were subsequently promoted. Obviously because of the disciplinary proceedings promotions could not be held but

A2/5

the departmental proceedings were pending because the applicants have delayed the matter. They were not considered fit for promotion. The department in the circumstances could have considered that on that date because of the pendency of the case which had not become final they were not fit. The department also delayed the matter and gave them censure entry. Obviously the only censure entry was ultimately given to them and subsequently as they were found fit for promotion they were promoted on a latter date. The contention on behalf of the applicants is that in any view of the matter even if they are there is no such order and censure entry ~~maximimally~~ given ~~maximimally~~ has not been made they were wrongly deprived the promotion on 30.11.1983, they are entitled to notional promotion, the additional monetary benefit for which they are entitled which has been snatched from them be restored. So far the date of promotion is concerned we do not find any ground to interfere with the same but in view of the fact that the applicants have approached the Department, the Department will consider their cases for notional promotion w.e.f. date their juniors were promoted and in case the Department finds that their prayer is justified there appears no reason why the department will not grant the same.

With the above observations and directions the applications are otherwise dismissed.

transcript

(A.B. GORTHI)
MEMBER(A)

U
(U.C. SRIVASTAVA)
VICE CHAIRMAN.

Allahabad Dated: 17.5.1991.