

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

1) O.A.269/87

J.M. Singh

V/s.

Union of India.

.. Applicant.

.. Respondent

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

Nand Kishore

V/s.

Union of India.

.. Applicant

.. Respondents.

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

R. Hussain

V/s.

Union of India.

.. Applicant

.. 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.

-: 2 :-

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.

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Coram : Hon'ble Vice Chairman Shri U.C. Srivastava.

Hon'ble Member(A) Shri A.B. Gorthi.

ORAL JUDGMENT :

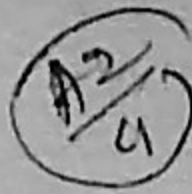
DATED : 17.5.1991.

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

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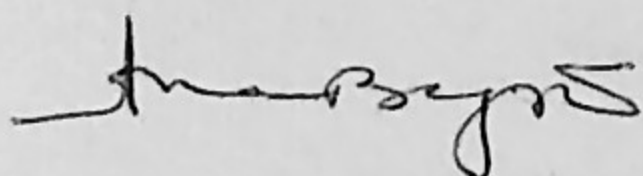
considered by the Departmental Promotion Committee then, who ^{it} was considered, only from 4.12.1984 they were promoted w.e.f. that date.. The applicant approached this Tribunal complaining that their promotion ^{on} of latter date was un-warranted and as a the matter of ^{fact,} ~~that~~ they were entitled to ^{be} 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~~ ^{have been} some disputes regarding overtime allowance and according to the applicants, continuous 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} ~~which 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 ^{that they resented} ~~resulted~~ to participate in un-warranted agitation ^{and including} ~~as Government extend~~ other employees for ^{concerted} ~~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, ^{deletion of units} ~~contention made~~ and delay ^{red} delivery to the members of public. The applicants did not submit their replies with ^{in the stipulated} ~~a~~ period and submitted their reply ~~in~~



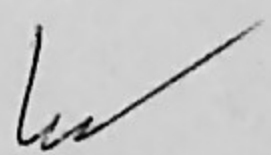
only in the month of December 1983 and the Departmental proceedings, it appears were also delayed and all of them were punished ~~and awarded~~ by order dtd. 23.5.1984. The grievance of the applicant, is that Departmental Proceedings were ^{undoubtedly} ~~doubtedly~~ pending ^{but} ~~but~~ because of 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 ^{ought} ~~order~~ 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, ^{and} as disciplinary action was pending against the applicants, which was initiated in the month of March 1983 ^{before} ~~but~~ the target date and ^{since} ~~question~~ of their replies ^{were} ~~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 ^{the disciplinary} ~~terms~~ proceedings promotions could not be held but ~~in the~~ ^{because} ~~the~~ departmental proceedings were pending and 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 him ^{him} ~~censure entry and latter stay~~. Obviously the only ^{Censure} sincere entry was ultimately given to them ^{and} subsequently ^{as} found ^{it} as fit for ~~earlier~~ promotion they were promoted on a latter date. The contention on behalf of the applicant is that ^{in any} ~~many~~ view of the matter even if they are there is no such order and ^{has} ~~sensure entry have~~ not been made ~~or the promotion~~ they were wrongly ^u ~~deprived~~ the promotion on 30.11.1983, they are entitled to notional promotion from the date the others ^{who} 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 ^{he restored} which has been snatched from them ~~or they snatched in~~ the ^u ~~restoration~~ by the applicant. So far the date of promotion is concerned we do not find any ground ^{to} ~~in~~ interfere ^{with} in the same but in view of the fact ^{that the} applicants ^{have} ~~has been~~ approached the Department, ^u ~~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 ^{why} appears no reason ~~for~~ the department will ^{not} ~~be~~ grant the same.

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



(A.B. GORTHI)
MEMBER(A).



(U.C. SRIVASTAVA)
VICE CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
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vs.

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

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

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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 wrongful 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 ^{as} they were found eligible they were subsequently promoted. Obviously because of the disciplinary proceedings promotions could not be held but

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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 ~~was made~~ ~~given~~ 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.C. Srivastava
(U.C. SRIVASTAVA)
VICE CHAIRMAN.

Allahabad Dated: 17.5.1991.