

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALAHABAD BENCH,
ALLAHABAD.

C.A No.823/92

Shri Phool Chand Sonker ::::: Applicant

vs.

Union of India &
Others. ::::: Respondents.

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

Hon. Mr. K. Obayya, A.M.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The grievance of the applicant is that within 5 months of his posting in the Mail Section, the applicant has been sent to Mail Office and in his place the respondent No.7, who was much Junior to him has been posted and has been upgraded with the result the applicant has now become junior and he was not given any opportunity of hearing also.

The applicant was appointed in the ~~the~~ year 1959. After relevant training he was working as sorting Assistant in the Mail Office. Prior to 1-1-92 he was working as opener and closer of the mail-bags. On account of his suitability and length of service his posting was rotated from mail office to the section in Train running from Gorakhpur to Allahabad. After 5 months thereafter, again another rotation took place, which according to the applicant, was as a result of Biennial cadre review in which the case of the applicant as well as the respondent No.7 was considered for upgradation. The respondent No.7 was found fit and he was upgraded in the said cadre review and the applicant was not selected and that is why he was put on rotation. The applicant has challenged this order on the ground that preference was given to respondent No.7, who is much junior to him and while making the posting order the applicant has been wrongly excluded although he was clearly senior to the respondent No.7. There is clear direction in the Circular dated 22/10/92 that the

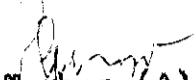
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rotation from Mail-section to Mail Office and vice versa shall be made for a period of one year. Accordingly the applicant was transferred to the Mail Office in the month of January and as such he was entitled to remain there for a period of one year and before the completion of one year is in violation of Articles 14 & 16 of Constitution of India and against the principles of natural justice.

2. The respondents have opposed the application and have pointed out that as a result of upgradation under the cadre review scheme, time bound promotion was to be given and both the candidates, the applicant and the respondent No.7 were considered and the one who was found fit was given the benefit of upgradation and as a result of that, a fresh rotation was necessitated and the Circular mentioned above will not be applicable in this case, as it applies only when there is no disturbance in the normal circumstances. Here, the normal circumstances or position was changed due to review of cadre and upgradation. As a result of upgradation, in which the applicant was also considered though not selected as he was not found fit, there is no question of giving opportunity of hearing to the applicant mainly because the departmental Circular is not sacrament or sacrosanct and a deviation from the same can always take place if the situation warrants the same. In this case such a situation came into existence. As such the rotation was inevitable and it was needed in conformity with the situation.

3. In the circumstances mentioned above it cannot be said that the Circular is mandatory and rigid and the directions contained in the said circular has been violated. Accordingly there is no merit in the

application and the same is dismissed. No order as
to the costs.


Member (A)


Vice-Chairman.

Dated: 20th January, 1993, Allahabad.

(tgk)