

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 1187 of 1992

Dated: 8th March, 1995

Hon. Mr. S. Das Gupta, Member(A)  
Hon. Mr. J.S. Dhaliwal, Member(J)

1. Bholanath I son of Sri Mewalal  
R/o 26 Mayur Road, Allahabad.
- 1/1. Smt. Kalawati, widow of late  
Bholanath R/o 26, Mayur Road,  
Allahabad. ... ... Applicant.

( By Advocate Sri N.L. Srivastava )

VERSUS

1. Union of India, through Secretary  
of the Ministry of Communication,  
New Delhi.
2. The Post Master General,  
Allahabad.
3. The chief Post Master General  
U.P. Lucknow.
4. The Member(Posts) Office of the  
Director General (P)DAK Bhavan,  
Sansad Marg, New Delhi. ... Respondents.

( By Advocate Sri S.C. Tripathi )

ORDER

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( By Hon. Mr. S. Das Gupta, Member(A) )

The applicant in this case was appointed  
as a Class-IV employee in Allahabad head post office  
in April, 1951. He was promoted as Clerk on 6.8.1955  
and thereafter to the Lower Selection Grade  
(L.S.G. for short) on 27.10.1980. He was due for  
promotion to the Higher Selection Grade ( H.S.G.  
for short) but it is alleged that the same was  
denied to him. The applicant's grievance is that his  
juniors were promoted to the higher selection grade  
but his claim was ignored. Such promotion to the

84

juniors, it is stated, has been wrongly given on the basis of the earlier confirmation of such juniors in the L.S.G. The applicant's contention is that the seniority should not have been reckoned for the purpose of promotion to the H.S.G. with reference to the date of confirmation in the L.S.G. since in terms of the amendment to Rule-32(e) of P & T Manual, Vol. IV only one confirmation in the entry grade is required and with reference to the confirmation in the entry grade, he was senior. The applicant is stated to have represented to the Senior Superintendent of Post Offices, Allahabad on 1.8.1988. Thereafter, he preferred a representation to the Chief Post Master General, U.P. on 10.7.1990 but it is stated that there has been no response to these representations. The applicant, meanwhile, retired on 30.11.1990 and thereafter he submitted a petition to the Member Postal Board on 3.1.1992. The Senior Superintendent of Post Offices informed the applicant vide his communication dated 12.2.1992 (Annexure- A 19) that his representation was considered by the Member Postal Board and the same has been rejected. This has led the applicant to file this O.A. under Sec. 19 of the Administrative Tribunals Act praying that a direction be issued to the respondents to consider the promotion of the applicant to the higher selection grade with retrospective effect from the date of the promotion of his juniors and also payment of all consequential benefits with interest at the rate of 15 %.

W.P.

2. In the counter affidavit filed by the respondents, it has been stated that the applicant was promoted to the L.S.G. under 2/3 rd quota of the vacancies in the year 1979. His seniority in the circle gradation list of L.S.G. cadre was fixed at Sl. No. 636. The applicant belongs to S.C. community and no L.S.G. officials belonging to that community and junior to the applicant was promoted till the applicant retired. It has been further stated that the criteria for promotion to H.S.G. was seniority in L.S.G. in A.P.M. Accounts cadre, the interse seniority of the L.S.G. officials in Postal list and those in the A.P.M. Accounts cadre being fixed with reference to the date of their substantive appointment in respective cadres of L.S.G. and A.P.M. Accounts officials. The applicant could not be promoted as he was junior in the combined seniority list.

3. The applicant has filed a rejoinder affidavit in which he has sought to explain the respective line of promotion for the L.S.G. officials in the general lines and the A.P.M. officials in the Accounts line. He was also given details of the posts in the L.S.G. in the division. This apart, the contentions made in the Original Application has been reiterated.

W.R.

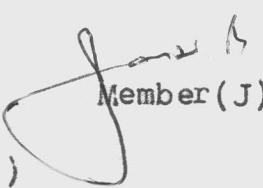
4. The learned counsel for the applicant pointed out during the course of argument that the case of the applicant is fully covered by the judgment and order dated 27.4.1994 passed by a Bench of the Tribunal disposing of O.A. No. 302 of 1993 Lallu Lal Gupta Vs. Union of India and others.

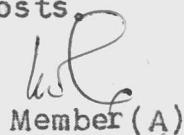
5. We have carefully gone through the decision in the case cited by the learned counsel for the applicant. A copy of the relevant judgment and order was made available to us by <sup>hun</sup> ~~me~~. We find that in that case, the applicant was promoted to the L.S.G. cadre on 23.2.1982, whereas, two of his juniors were promoted to that cadre on 1.8.1983 and 2.1.1988 respectively. The two juniors were, however, promoted to H.S.G-II ignoring the applicant on the ground that he was confirmed later than his juniors in the L.S.G. cadre. A Bench of the Tribunal held that the rule of determination of interse seniority of the L.S.G. officials by the date of confirmation in that grade is not tenable and if a person has been promoted earlier to the L.S.G. cadre and has also been confirmed in the entry grade earlier, he shall have priority over those who have been promoted to the L.S.G. on subsequent date for consideration for promotion to H.S.G. II. The rationale of this decision is that by an amendment to the relevant rules, it has been enjoined that confirmation is to be done only at the entry grade and there would be no confirmation on promotion. The Tribunal also relied on the decision of the Supreme Court in the case of Bal Kishan Vs.

Delhi Administration 1990 (1)S.C.J. 464.

6. The facts of the case before us are in parimateria with those in the case of Lallu Lal Gupta. We see no reason to disagree with the decision given in the Lallu Lal Gupta's case. It is, however, not very clear from the averments made in this application as to who are the juniors to the applicant in the L.S.G. cadre who have been promoted to H.S.G.-II and the date of their promotion. If, however, any such junior in the L.S.G. grade to the applicant has been promoted to H.S.G.-II prior to the retirement of ~~@@~~ the application, we direct that the applicant shall also be considered for such promotion and in case he is otherwise found fit, he shall be promoted with effect from the date <sup>on</sup> ~~from~~ <sub>u</sub> which such juniors were promoted. On such promotion, he shall be entitled to the difference of pay and allowances from the date of his promotion till the date of his retirement and also to other consequential benefits like corresponding increase in the retiral benefits. This direction shall <sup>be</sup> ~~be~~ complied with ~~@@~~ within a period of 3 months from the date of communication of this order.

7. The application is disposed of with the above directions. There will be no order as to costs.

  
Member (J)  
(n.u.)

  
Member (A)