

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 12th day of July 2001

Original Application no. 1117 of 1993.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen KK Srivastava, Administrative Member

Kripal Singh Rawat, S/o Sri GS Rawat,
working as Supervisor, SBCO,
Baraut, HO, R/o village Paniyali Talli
(Kashi Rampur), Post Kotdwara,
Distt. Pauri Garhwal.

... Applicant

C/A Shri MK Updhayaya
Shri RV Tewari


Versus

1. Union of India through the Secy.
Minis. of Commns. (Deptt. of Posts),
Sansad Marg,
NEW DELHI.
2. The PMG, UP Dehradun.
3. The Sr. Supdt. Pos, Meerut Dns,
Meerut.

... Respondents

C/Rs. Km. Sadhana Srivastava

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so far, hence this controversy.

3. Heard Shri MK Updhayaya learned counsel for the applicant and Miss. Sadhana Srivastava learned counsel for the respondents and perused the records.

4. The learned counsel for the applicant submitted that the applicant is senior to Sri Jai Ram, Sri Sangam Lal and Sri RS Verma. The name of the applicant in circle Gradation List of UDCs of SBCO/ICO is at sl no. 93 ^{whereas} while Sri Jai Ram, Sri Sangam Lal and Sri RS Verma are ^{at} sl. no. 94, 95 & 96 respectively. However, his juniors have been shown as Supervisor whereas the applicant has been shown as JAO on deputation. The above named juniors were promoted as Supervisor on deputation ^{on} ^{an} ad hoc basis vide order dated 16.4.1982 (annexure A-3) in the scale of Rs. 425 - 700 revised to Rs. 1400 - 2300 w.e.f. 1.1.1986 and the applicant was left out. He represented to the authorities concerned but of no avail. He was repatriated from APS in July 1986 and represented against the ^{an} injustice done to him. The applicant was promoted as Supervisor LSG vide order dated 6.5.1987 (Annexure CA 5) but his pay was not fixed under FR 22(c) by stepping up his basic pay at par with that of his juniors. His juniors were further promoted to HSG II in scale of Rs. 1600 - 2660 on introduction of

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Time Bound promotion and ^{the} applicant was denied this promotion. He represented on 9.4.1992 but his representation is still pending. The action of the respondents is discriminatory in nature and violative of Article 14 and 16 (1) of the Constitution of India.

5. The learned counsel for the applicant further submitted that considering the promotion of juniors without notice and opportunity to be heard is in contravention of the principle of natural justice.

6. Miss. Sadhana Srivastava, learned counsel for the respondents contested the claim of the applicant and made following submissions :

- i. Juniors of the applicant were promoted purely on temporary and ad hoc basis. Applicant was not considered as he was on deputation to APS.
- ii. Petitioner should have agitated the matter at the relevant point of time i.e. in the year 1982. Hence the OA is liable to be rejected on the ground of limitation.
- iii. The applicant was promoted as LSG Supervisor. He was entitled for promotion to HSG II Scale of Rs. 1600 - 2660 on completion of 26 years of service on 11.1.1995 which has been given

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vide CPMG UP circle order dated 18.3.1997.

7. We have carefully considered the submissions of the Counsels for Contesting parties. We are of the view that the juniors of the applicant could not be considered for promotion in 1982 without considering the case of the applicant. The applicant was on field service and he had no means to lean^{or} about the said promotion. The applicant should have considered for promotion and since nothing adverse has been noticed against him we have no doubt that he would have made the grade to the post of LSG Supervisor. After his promotion he should have been informed either to come back to Deptt. from deputation or else he should have been given the pay protection under FR 22 (C).

8. The contention of the respondents that the promotion of applicant's juniors was purely temporary and ad hoc does not have force in the eyes of law. The ad hoc promotion must be for a short duration. The applicant's juniors never reverted to the lower post and worked as supervisor till they were promoted in HSG II Cadre. Treating a promotion as temporary and ad hoc for 9 years without reversion is incorrect and unjustified. The claim of the applicant should have been considered and he should have been given all the benefits which ^{he} his juniors got in 1982 and 1991.

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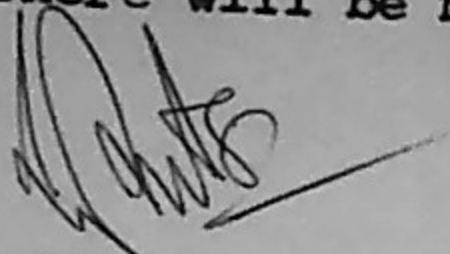
9. The plea of the respondents that the applicant should have agitated ^{at the} appropriate time i.e. in 1982 itself cannot be accepted. We have already pointed out that the applicant had no means to know about promotion of his juniors to LSG Supervisor grade ignoring him unless and until he was informed by the respondents about it. The applicant agitated the matter immediately after he came to know of it. It was only on his representation that his case was considered and he was promoted as LSG Supervisor vide order dated 6.5.1987 (annexure CA-5). ^{Hon'ble} Supreme Court ^{has} in 1992 Supreme Court Cases (L&S) 665 A Sagayanathan & Ors Vs. Divisional Personnel Officer, SBC Division, Southern Railway Bangalore ^{has} held that ^{sup}preceded appellants have genuine grievance and the dispute should be disposed of on merits ⁱⁿ despite the delay. Hence, in the present case even if it is assumed that there was delay, the matter of the applicant is not time barred.

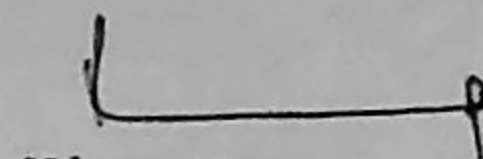
10. In view of the above the OA is allowed with the direction to the respondents that the applicant be given promotion w.e.f. the date his juniors were promoted in 1982 by amending order dated 6.5.1987 (annexure A-4). He will also be given the HSG II promotion to the scale of Rs. 1600 - 2660 from the date his juniors were promoted. His pay will be re-fixed under FR 22 (C) (Old) and stepped up at par with his

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of
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juniors at each stage promotion. The applicant
will be entitled to all consequential benefits.
The action on the part of the respondents will be
completed within 4 months.

11. There will be no order as to costs.


Member-A


Vice-Chairman

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