

NO
Promotion

B

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 339/89
T.A. No.

DATE OF DECISION 30.11.1992.

Shri Ambalal P. Patel Petitioner

Mr. J. G. Chauhan Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr. Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

Vice Chairman

The Hon'ble Mr. R.C. Bhatt

Memberxx (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

(18)

Shri Ambalal Ranchhodbhai Patel,

Mahadev Falia, Sama.EME,

Vadodara-8.

...APPLICANT.

(Advocate : Mr.J.G.Chauhan)

VERSUS

1. Union of India, DG.Department
of Post,, "Sanchar Bhuvan",
Parliament Street,
New Delhi.

2. Directors Postal Services,
Vadodara Region,
RMS Bhuvan, Pratapgunj,
Vadodara- 390 002.

3. Senior Superintendent of POS,
East Division,
Vadodara- 390 001.

....RESPONDENTS.

(Advocate : Mr.Akil Kureshi)

J U D G M E N T
=====

O.A./339/89

Date : 30.11.1992.

Per : Hon'ble Mr.N.V.Krishnan

Vice Chairman

The applicant who is working as
a postman, is aggrieved by his being superseded for
promotion by the DPC on 20/1/1982^{e as} communicated to
him by the 3rd respondent, the Senior Superintendent of
Post~~al~~ Offices, Baroda on 25/10/1988 (Annexure M letter

.....3.....

also referred to as Annexure 14) His grievance is that though he is senior to certain others, he was not promoted before his juniors. ^{Hence} ~~However~~, he filed this application on 05/12/1989. It has been admitted only in respect of the prayer mentioned in clause B of para 7, which reads as follows.

" That, the promotion to higher grade may be given to the applicant as per rules existing in that period or he should be confirmed as a postman prior to Shri M.B.Patel."

2. At the outset, it was pointed out to the applicant's counsel that as he had prayed for confirmation as a postman prior to M.B.Patel, he ought to have impleaded M.B.Patel as a necessary party. Having ^{at} ~~filed~~ to implead him, he was informed that this relief may not be considered in this application. Therefore, what remains ^{for} ~~consideration~~ is his prayer that he should be given promotion to the higher grade in accordance with the ^{sub} ~~ap~~ applicable at the relevant period.

3. The applicant was initially appointed as a postman on 03/07/1952 by the order at Annexure A/1. He worked as a postman for about 3 years. Thereafter, he was sent as a packer to Baroda Head Office, by the memo dated 11/05/1955 (Annexure A/2) He states that he was not the ~~then~~ ^{aware} ~~advise~~ that the cadre of packer is separate from that of a postman and by the transfer, his seniority as a postman was lost. He was not aware of, this, at that time, being an uneducated person.

4. Thereafter, when the applicant

requested for work as a postman in 1961-1962 he was advised that he had to pass an examination which he ^{he did} ~~failed~~. He was then appointed by order dated 11/06/1963 in the Baroda Head Office, (Annexure C) as a postman where ^{he} he joined on 29/06/1963.

5. The applicant complains that Shri ^{he} ~~M.B.~~ Patel who was appointed on 01/10/1964 as a postman was confirmed on 01/05/1966. The applicant was victimised for his union activities and he was confirmed only on 17/09/1969. He ^{he knew} ~~however~~, these facts only in 1981, when he came across the Divisional Gradation List of postman cadre as on 01/07/1981, which included the names of the permanent officials ^{he} ~~(Annexure A-5)~~ in respect of Baroda, (E) Division. The applicants name is shown therein at serial no.56, while M.B.Patel's name is ~~x~~ at serial no.36. Column 26 (6) of the list indicates the date of confirmation and the seniority is granted on the basis of the date of confirmation. The applicant admits that he became aware of the seniority list on 01/07/1981. He made representations against ^{it} the seniority list because, according to him, his seniority as postman should count from 23/07/1953, when he entered the department as a postman and therefore, he should be placed above M.B.Patel who entered the department only on 01/10/1964. The applicant's complaint is that because of this wrong seniority list, he is suffering heavy damages, because, his juniors have been promoted to the higher posts earlier than him.

6. ⁱⁿ It is this background that the applicant has sought relief that he may be granted promotion accordingly to rule.

7. The respondents have filed the ~~replies~~ ^{end} ~~containing~~ that the application has no force and it should be rejected. It is contended that, prior to the appointment of the applicant on the group D post of Mail Peon on 23/7/1953, he had worked ^{intermittently} ~~by~~ as an ^{outsider} as a postman on leave vacancies. He became a regular postman after passing the examination in 1963. The ^{seniority} ~~seniority~~ in the cadre of postman is on the basis of the date of confirmation as provided in Rule 32(E) of P & T Mail Rule IV. He ~~was~~ confirmed only from 17.7.1969, as is evident from Annexure A/4 when he was regularised as a regular postman from the cadre of leave reserve, while M.B. Patel was confirmed earlier.

8. We have perused the records and heard the counsel of both sides. It is evident that the Annexure A/5 seniority list is valid and it has not been modified despite the representations made by the applicant. Therefore, the relative position of the applicant vis-a-vis M.B. Patel, will have to be determined only by the Annexure A/5 seniority list. Admittedly ^{it} M.B. Patel and several others who have been confirmed earlier than the applicant, are senior to him thereⁱⁿ ~~there~~. The only claim of the applicant for being promoted earlier to ~~the~~ the next higher grade is that he considers himself to be senior to M.B. Patel. This contention has no basis. The Annexure A/5 ^{no} ~~seniority~~ ^{list will prevail} ~~with provide~~. The applicant has not suffered any injustice by being considered for promotion on the basis of this ^{no} ~~seniority~~ ^{list} ~~seniority list~~.

(d)

9. As this is the only prayer that has to be considered in this application, we are not considering the other prayers made by him in this application, as the application has not been admitted for these prayers.

10. In the circumstances, we find no merit in this application. Hence, it is dismissed.

P.C. Bhatt
(P.C. BHATT)

MEMBER (J)
30.11.1992.

N.V. Krishnan
30/11/92
(N.V. KRISHNAN)

VICE CHAIRMAN
30.11.1992.

*SS