

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A.NO. 41 of 1993

~~T.A.NO.~~

DATE OF DECISION 20th Decr. 1996

Himatlal G. Joshi Petitioner

Mr. K.C. Bhatt Advocate for the Petitioner s[]

Versus

Union of India & Others Respondent

Mr. Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. K. Ramamoorthy, Member (A)

The Hon'ble Mr. A.K. Mishra, Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

No.

Himatlal G. Joshi
Sub Postmaster
Manek Chowk
Porbandar- 360 575.

Applicant

- Advocate: Mr. K.C. Shatt-

Versus

1. The Union of India through
The Director General
Department of posts
Ministry of Communication
Dak Bhavan, Sansad Marg
New Delhi-110 001.
2. The Chief Postmaster General
Gujarat Circle
Ahmedabad- 380 001.
3. The Postmaster General
Rajkot Region
Rajkot- 360 001.
4. The Supdt. of Post offices,
Porbandar Dn., Porbandar- 360575. Respondents

Advocate: Mr. Akil Kureshi-

JUDGEMENT

IN

O.A.No.41 of 1993

Dated 20th December, 1996

Per Hon'ble Mr. A.K. Mishra, Member (J):

The applicant Mr. Himatlal G. Joshi, S.P.M. Manek Chowk, Porbandar has filed this application with the prayer that respondents be directed to consider the applicant for Biennial Cadre Review promotion, (in short B.C.R. promotion) and place him in the higher grade of Rs.1600-2660. He has further prayed that the respondents be directed to show the applicant's name in the memo dated 3rd April 1992 issued by Superintendent of Post Offices Porbandar Division at the proper place.

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on

2. Notice of this application was given to the respondents who have given their written reply. It is stated by the respondents that the applicant was considered for B.C.R. promotion but was not found to have rendered satisfactory service and therefore was not given promotion. The application deserves to be dismissed.

3. In the rejoinder the applicant has denied the allegations of the respondents and stated that the department has given B.C.R. promotion to such candidates who were adversely placed in terms of service rendered by them and thus differential treatment has been given to the applicant.

4. We have heard the learned counsel for both the parties and have gone through the record.

5. It was argued by the learned advocate for the applicant that on one hand department did not find him suitable for grant of B.C.R. promotion while on the other hand department allowed the applicant to cross Efficiency Bar. If he was eligible to cross the E.B. why he has been refused B.C.R. promotion? Thus the respondents did not appreciate the service records of the applicant objectively. ~~Thx~~ He cited following rulings in support of his arguments:-

- (1) O.A.No.379/52 C.T. Prabhakar Rao V/s. Sr. Superintendent Post Offices decided by C.A.T. Hyderabad.
- (2) A.T.R. 1952(1) CAT Bombay- S.K. Mallik V/s. Union of India & Others.

6. On the other hand, the learned counsel for the respondents has argued that under B.C.R. promotion scheme which came in force with effect from 1.10.51, it was to be seen by the department whether the applicant has rendered satisfactory service to the department. He has further argued that service record as it stood

on the day of consideration was to be looked into and if by that record it appeared that applicant had not rendered satisfactory service applicant could not be given promotion under L.C.R. Scheme. He has further argued that record of the applicant's first 26 years of the service was not the only record which was required to be looked into. On consideration of the applicant when the record of service upto the year 1981 was looked into it was found that the applicant had suffered punishment of two censures and stoppage of grade increments twice. Thus it cannot be said that the applicant rendered satisfactory service.

7. We have considered the rival arguments. No doubt, upto 1984 when the applicant says to have completed 26 years of service the applicant had not earned any adverse entries. But it is not correct to say that at the time of consideration, service record only upto 1984 i.e. when the applicant completed 26 years of service was only to be looked into. After 1984, the applicant had suffered punishments and therefore on the date of consideration for promotion under L.C.R. scheme he was found to have rendered unsatisfactory service as per the assessment of the concerned committee. Therefore he was rightly not given promotion under L.C.R. Scheme. The rulings cited by the learned advocate for the applicant are not applicable in the instant case because of different facts and circumstances.

8. Criteria for giving promotion under L.C.R. Scheme may be different than allowing the applicant to cross the E.L., therefore the applicant cannot take any advantage of the departmental action of

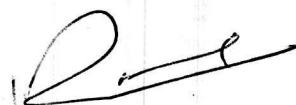
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allowing him to cross E.M. for securing D.C.R. promotion.

9. In our opinion, the applicant has not made out a case for quashing the order of the respondents dated 24.6.92 Annexure A-4. Prayer in this respect deserves to be rejected. Consequently the application of the applicant is dismissed with no orders as to costs.



(A.K. Mishra)
Member (J)



(K. Ramamoorthy)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. OA/41/93

Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 31/12/86

Countersign :

8/11-97

Section Officer.

K. R. Rao
Signature of the Dealing
Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

I N D E X - S H E E T

CAUSE TITLE

NAME OF THE PARTIES

VERSUS

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(4)	Rejoinder	27 to 31
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