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O.A. No. 1223/03

ORDER DATED 24<sup>th</sup> JUNE, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

This O.A has been filed by the applicant with the following prayers:-

"To give a direction to the Respondent No.1 to 4 to consider the case of the applicant for promotion to the cadre of HSG-I and promote him to HSG-I, from the date, the Respondent No.5 has been given promotion to HSG-I with all consequential benefits including back wages".

2. The applicant was recruited as a T.S Clerk (now designated as Postal Assistant) on 14.11.1964. According to the applicant, as per Annexure-A/1 the revisional gradation list published in Orissa Circle, the applicant is senior to the Respondent Nos.5 & 6. Further the applicant submits that he was promoted to the next higher scale/grade, i.e., getting the pay scale of Time Bound One Promotion (TBOP) scheme w.e.f. 30.11.1983 and on that pay scale he had completed about 16 years. Further the case of the applicant is that he was working in the TBOP promoted scale which was further equivalent to Lower Selection Grade (LSG). The applicant further relied on Annexure-A/3 and A/4 gradation lists in which the applicant was also shown senior to Respondent Nos. 5 & 6, in which the Department introduced BCR Scheme for the Group 'C'

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employees, which is equivalent to HSG-II. The applicant was promoted to BCR (HSG-II) scale/grade after completion of 26 years of service under BCR Scheme and was also shown senior to Respondent Nos.5 & 6. If so, the applicant has to be promoted to the next higher cadre of HSG-I. However, as the Department has not treated TBOP Scheme as equal to LSG post the applicant has <sup>been</sup> not given the benefit. Hence, according to the applicant he is entitled to promotion over Respondent Nos. 5 & 6 and also entitled to the promotion to the post of HSG-I. In this context, the Ld. Counsel for the applicant relied on the order of the C.A.T. Madras Bench in O.A No.679 of 2003 dated 19.03.2004 in K. Perumal and M. Ramasamy Vs. Union of India and Others. In the above O.A the C.A.T. Madras Bench considered the question whether the TBOP is equal to that of LSG or not. The Bench also considered whether TBOP is only financial up-gradation or promotion or not. In the above case the C.A.T. Madras Bench, held that OTBP & BCR promotions are not mere financial upgradation and these correspond to LSG and HSG-II. In the light of the above, the Counsel appearing for the applicant submits that the applicant is entitled to the financial benefits applicable to LSG and HSG.

3. A counter affidavit has already been filed for and on behalf of the Department and it is stated in the counter that regarding the claim of the applicant that he is senior to Respondent No.5 & 6, there is no comment except that TS

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gradation list of 1977 has undergone many changes. As per seniority list of PA, BCR corrected up to 01.07.2001 circulated vide Memo No.ST/26-3(GL)/2002, dated 29.05.2002, the positions of Sri U.N. Mohanty, Sri P.C. Khadanga and the applicant are at Sl.Nos.153, 168 and 180 respectively. Hence, the TS Clerk gradation list of 1977 is not relevant for promotion to HSG-I in 2003. But this <sup>is</sup> not correct in the light of Annexures-A/3 & A/4 gradation list. As per this, the applicant is senior to Respondent No.5 & 6 with regard to the promotion. It is stated in the counter as follows:-

“ Prior to introduction of Fast Track Promotion Scheme in the year 2002, HSG-I was given from BCR cadre duly approved by the DPC. The last such DPC was held on 20.03.2002 to fill up existing vacancies in HSG-I and also prepared an approved panel to fill up the vacancies coming up during the year or till next sitting of the DPC.

As per the Circle Seniority list of BCR officials corrected up to 01.07.2001 then in force, the position of both the applicant and also of Shri Samanth Sahoo & P.C. Khadanga who figured in the OA are as follows.

1. Sl. No.22 Somanath Sahoo Berhampur Dn.
2. Sl. No.153 U.N. Mohanty (UR) Karaput Dn.
3. Sl. No.168 P.C. Khadanga(UR) Berhampur Dn.
4. Sl. No.180 D Subba Rao (UR) Koraput Division

A copy of Circle Seniority List of BCR (PA) officials corrected up to 01.07.2001 circulated in Chief PMG, Orissa Circle, Bhubaneswar letter No.ST/26-3(GL)/2002 dated 29.05.2002 is annexed as Annexure-R/1 to this counter.



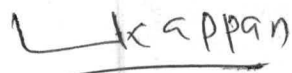


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5. With the above finding, the applicant succeeds in this O.A. Accordingly the Respondent No.1-4 are directed to consider the case of the applicant and shall pass appropriate order thereon within a reasonable time, at any rate within 04 months of the receipt of the copy of this order. There shall be no order as to costs.

  
Member (A)

  
MEMBER (J)