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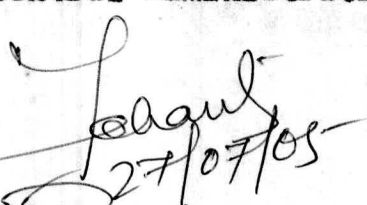
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK


Original Application No. 28 of 2005
Cuttack, this the 27th day of July, 2005

Syed Mahammed Ali Applicant
Vs
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 75


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 28 of 2005
Cuttack, this the 27th day of July, 2005

CORAM :

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

.....

Shri Syed Mahammed Ali, aged 50 years, S/o. Syed Mozammil Ali,
Village: Kendrapara, At present working as Sub Post Master
at Salepur, Sub Post Office, H.S.G.II Under Cuttack (N)
Division-Cuttack.

..... Applicant

By the Advocates

- M/s T.Rath, M.K.Dash.

VERSUS

1. Union of India, represented through Chief Post Master General, Orissa Circle, Bhubaneswar, Dist: Khurda.
2. Superintendent of Post Offices Cuttack (N) Division, At-Contentment Road, Dist: Cuttack.
3. Post Master, Kendrapara, Head Post Office, Post/P.S./ Dist. Kendrapara.
4. Shri A.C.Sethy, Asst. Post Master (Accounts), At: Jajpur Head Post Office, Post/P.S./Dist : Jajpur.
5. Shri G.K.Biswal, Asst. Post Master (Mail), At: Kendrapara Head Post Office, Post/P.S./Dist: Kendrapara.
6. Shri S.K.Panigrahi, Sub Post Master, At: Rajkanika Sub Post Office, At/Post: Rajkanika, Dist: Kendrapara.
7. Shri B.K.Patnaik, Sub Post Master, Indupur Sub Post Office, At/Post: Indupur, Dist: Kendrapara.
8. Smt. Sanghamitra Mohapatra, Asst. Post Master (S.B.) At: Jajpur Head Post Office, Post/P.S./Dist: Jajpur.

..... Respondents

By the Advocate

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Mr. P.R.J.Dash(ASC).

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ORDER

SHRI B.N.SQM, VICE-CHAIRMAN :

Shri Syed Mahammed Ali, the applicant, has filed this application assailing the decision of the Respondent No.2 calling for option from the LSG officials of the division for making officiating arrangement in HSG-II and HSG-I cadres for short term vacancies (Annexure-A/4) on the ground that it has affected his right to officiate in the higher cadres of HSG-II/HSG-I.

2. The undisputed facts of the case are that the applicant is a Postal Assistant (PA, in short) in BCR (Biennial Cadre Review) category by virtue of which he is getting the benefit of the pay scale of the higher grade of Rs. 5500-9000/-. He has filed this O.A. assailing the decision of the Respondent Department for introducing a scheme of promotion, called, First Track Promotion Scheme, to fill up the LSG and HSG-II posts in the Post offices and R.M.S. offices on the ground that by introducing the said scheme, the Respondent No.2 has given promotion to one Smt. Sanghamitra Mohapatra and one Shri G.K.Biswal, both of whom were juniors to the applicant in PA cadre. He has also challenged the order of Respondent No.2 issued vide his letter No. B-173 Chapter-II, dated 4.11.04 in which it has been stated that "LSG is a feeding cadre to the post of HSG-II" as an illegal presentation of fact. His plea is that when BCR category officials are available in an office/station, the Respondents

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can not fill up any post of HSG-II ignoring those officials on the ground that such BCR officials enjoy pay scale higher than the pay scale of approved LSG officials (Rs. 4500-7000/-) whether recruited by First Track Promotion Scheme or otherwise. He has also challenged Annexure-A/5 by means of which the Respondents seek to make local officiating arrangements from among the willing HSG-II, LSG(Norm based) or Sr. BCR officials in order of seniority. His allegation is that the order at Annexure-A/5 is violative of the instructions issued by the Department of Posts by their letter No. 5-16/2002-SPB, dt. 12.12.02.

3. Per contra, the Respondents have found no merit in the contentions of the applicant. Adverting to the facts of the case, they have clarified that the applicant while he was working in Salipur MDG, being the seniormost BCR official was asked to take over charge of the post of Postmaster, Salipur MDG (HSG-I) in a stop gap arrangement without any financial and service benefit, with effect from 1.11.04. However, for regular appointment to the post the Department has been exploring possibilities of finding out suitable officials as per the Recruitment Rules and it is in this connection that the Circulars at Annexure-A/4 and Annexure-A/5 were issued. They have stoutly opposed that those Circulars were bad in any way or those were issued in violation of any circular/instructions issued by the Director General of Posts. They have further submitted that the Department, over and above having the system of promotion

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as set out in the Recruitment Rules from the cadre of PA to the supervisory grades of LSG/HSG-II and HSG-I, have also introduced two schemes, called, Time Bound Promotion Scheme (TBOP, in short) and Biennial Cadre Review (BCR, in short) for meeting career aspirations of their employees. Under TBOP and BCR schemes, pay upgradation is granted to the PAs when they do not get promotion even after expiry of 16 years of service or 26 years of service, as the case may be. But for the purpose of promotion to HSG-I the feeder grade is HSG-II and for HSG-II the feeder grade is LSG. In this case, admittedly, the applicant is a BCR official, and, therefore, is not entitled to promotion to HSG-I post. The same position was clarified in the letter issued by Govt. of India, Department of Posts letter No. 4-16/2002-SPB-II, dated 22.11.02, when the Department of Personnel and Training advised the Respondent Department that "norm based LSG/HSG-II posts may be filled up notionally in terms of the relevant Recruitment Rules."

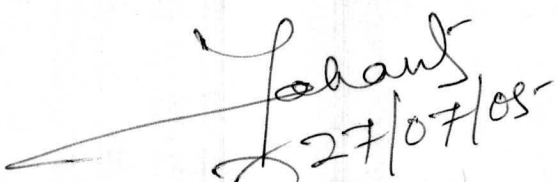
4. We have heard the Id. Counsel for the rival parties and have perused the records placed before us.

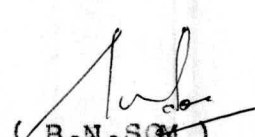
5. The controversy raised in this O.A. is whether Annexures-A/4 and A/5 issued by Respondent No.2 and Respondent No.1 are bad in law. To find the answer we may again traverse the contents of Annexure-A/4 and Annexure-A/5. By issuing Annexure-A/5, Respondent No.1 instructed all concern that to manage local officiating arrangements without any financial and service benefits the willing officials working

in the grade of LSG and HSG-II failing which Sr. BCR officials in order to seniority may be given posting. In the Annexure-A/4 Respondent No.2 had called upon five norm based LSG officials of the division to submit their willingness or otherwise to work in HSG-II/HSG-I cadre in short term vacancies purely on adhoc basis and without any financial benefit at any where in the division. Referring to the Department of Posts letter dated 12.11.02, we have found that the Department was advised by Department of Personnel and Training to fill up the norm based LSG/HSG-II posts only in terms of the relevant Recruitment Rules and the HSG-I posts only from amongst those officials who had been formally appointed in HSG-II with the requisite 3 years actual/notional service in the grade, as the case may be (emphasis supplied). As the Government has not permitted filling up of the posts in the grade of HSG-II/HSG-I except by those officials who are formally appointed in LSG/HSG-II, the administration had to resort to some other measures to fill up short term vacancies on stop gap arrangement. In this connection, our attention has been drawn to the Dept. of Posts letter No. 137-42/2002-SPB-II, dated 30.10.02, by which the Director General of Posts had circulated instructions that leave/short term vacancies in HSG-I may be filled up on adhoc basis as per the procedure that was prescribed in his letter No. 22-1/89/PE.I(Vol.II), dated 18.4.02. In the face of this Circular, the allegation of the applicant that the circular issued by Respondent No.1 at Annexure-A/5 has been made in violation of the said procedure laid down in the

Department of Posts letter dated 30.10.02/dated 18.4.02 appears to be misconstrued. We have also no hesitation to hold that the decision to make adhoc and officiating arrangement without any service benefit from among the seniormost officials available either in the office where the vacancy arises or in the station, in the category of HSG-II or LSG or Sr. BCR official is rational and unassailable being in conformity with the Government of India, Department of Posts instructions contained in their letters dated 18.4.02, 30.10.02 and 12.11.02, as referred to earlier. Accordingly, this O.A. fails. We order accordingly. No costs.

6. With this, the order dated 1.2.05 of the Single Bench of this Tribunal is also set aside.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SGM)
VICE-CHAIRMAN

KUMAR