

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 51 of 2006

Thursday, this the 22nd day of November, 2007

CORAM:

HON'BLE DR K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE MR TARSEM LAL, ADMINISTRATIVE MEMBER

Sri Dolagobinda Sahoo,
S/o. Late Krupasindhu Sahoo,
At : Arada, PO : Tirtol,
District Jagatsinghpur. : Applicant.

(By Advocate Mr. P.K. Padhi)

v e r s u s

1. Union of India represented through
Secretary Cum Director General of Posts,
Dak Bhawan, Sansad Marg, New Delhi : 110 001
2. Chief Postmaster General, Orissa Circle,
At/PO : Bhubaneswar, Dist.: Khurda : 751 001
3. Director of Postal Services (Headquarters),
Office of the Chief Post Master General (Orissa),
At/PO: Bhubaneswar, Distt. Khurda : 751 001
4. Superintendent of Post Offices,
Cuttack South Division, At: P.K. Parija Marg,
PO: Cuttack GPO, Distt. Cuttack: 753 001
5. Sri Ramesh Chandra Mohanti,
(Retired Postmaster),
At Puruna Basanta, PO: Dedhusur Deuli,
Via: Nalibar, Distt.: Jagatsinghpur. : Respondents.

(By Advocate Mr. U.B. Mohapatra, SCGSC)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The short question in this case is whether in the event of an order of
penalty being quashed and a person is directed to be reinstated in service, with
consequential benefits, whether the person is entitled to be afforded ad hoc

BR

promotion as his junior had been afforded.

2. Brief facts: The applicant was subjected to certain disciplinary proceedings and as a matter of penalty, the applicant was compulsorily retired. After exhausting the departmental remedies, the applicant filed OA No. 256/89 and the Tribunal had allowed the same, vide order dated 16th November, 1990 which inter alia reads as under:-

"For all these reasons we have no doubt that the inquiry has been vitiated and consequently, we quash the order of compulsory retirement vide Annexure-6. The applicant is on the verge of retirement on superannuation. Therefore, we would direct reinstatement of the applicant in service within a week from the date of receipt of a copy of this judgment, with all consequential service benefits including the financial benefits with effect from the date of his compulsory retirement till the date of reinstatement."

The applicant was reinstated on 29th November, 1990 and on 30th November, 1990 he superannuated. The applicant had filed another OA No. 395/1997 for a direction to respondents to fix his pension in HSG II cadre w.e.f. the date his junior got the pay of HSG II, with all consequential benefits. Though the applicant had made many representations, these were put before the Dak Adalat but the Dak Adalat did not consider the same in accordance with law but sent them to the authorities for their consideration. However, at the submission of the counsel for the applicant, the OA was disposed of with a direction to the applicant to make a comprehensive representation, and in the event of the filing of the same, the respondent should consider the same and pass a speaking order. Thus, the applicant had preferred a representation inter alia stating that applicant's junior one Shri R.C. Mohanti was officiating as HSG II Head Post Master of Jagatsinghpur Head Post Office and had the applicant been in service, he would have been allowed to officiate as Head Post Master of that Post Office.

As the applicant was the senior most L.S.G. Official in the entire division he must be given pension in HSG II Scale and all consequential benefits. The Tribunal on a misc. application filed by the applicant (MA 457/2002) in the afore said OA No. 395/95, directed the respondents to pass necessary orders on the representation of the applicant. The respondents accordingly considered and passed the impugned Annexure A-8 order dated 22nd January, 2004 holding that the promotion granted to Shri Mohanti was only on ad hoc basis and as such, the applicant is not entitled to any benefit of ad hoc promotion, as the same is not provided for in the rules. Hence, this OA.

3. Respondents have maintained their contention that when the junior was promoted only on ad hoc basis, there is no question of the applicant being given the same position either notionally or actually.
4. Counsel for the applicant has summarized the entire facts of the case and submitted that if the applicant is not granted such benefits, there would be no other consequential benefits that would be available to him while the Tribunal had ordered consequential benefits as well.
5. Counsel for the respondents submitted that there is no provision in the Rules by which the applicant could be granted any ad hoc promotion or HSG Gr. II scale on the ground that his junior had been granted ad hoc promotion as HSG II.
6. Arguments were heard and documents perused. The penalty order having been set aside, the applicant was entitled to be placed back to the same position as on the date of his compulsory retirement and thereafter, it should be

seen whether the applicant would have been entitled to. In order to have this part examined, the case of his immediate junior is to be taken and if he had been afforded any benefit such as promotion etc., The contention of the applicant is that had he continued in service, it was he who would have been given ad hoc promotion in the place of Shri Mohanti. The contention of the respondents is that it is only regular promotion that is considered as promotion and not ad hoc promotion. It appears that the stand taken by the respondents is more logical. For, ad hoc promotions are not regular promotions. For grant of ad hoc promotion, under certain contingencies seniors could be ignored and juniors could be considered and given ad hoc promotion. In the instant case notwithstanding the fact that the applicant ultimately came out victorious in his challenge against the penalty order of compulsory retirement, he cannot claim that he too should be given retrospective ad hoc promotion as HSG Gr. II. As such, no right of the applicant has been hampered by not granting the applicant ad hoc promotion at par with his junior. Hence, the OA being devoid of merits, is dismissed.

7. No costs.

(Dated, the 22nd November, 2007)

Tarsem Lal
TARSEM LAL
ADMINISTRATIVE MEMBER

DR. K.B.S.RAJAN
DR. K.B.S.RAJAN
JUDICIAL MEMBER