

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 213/1997
~~T.A. No.~~

199

DATE OF DECISION : 05.04.2000.

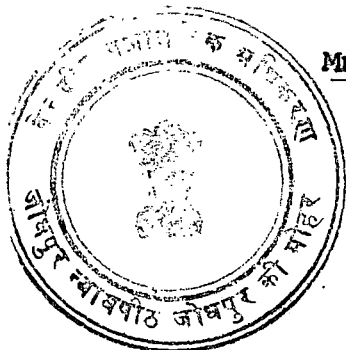
Shree Bhagwan, _____ Petitioner

Mr. B. Khan, Adv., brief holder for
Mr. P.N. Jatti, _____ Advocate for the Petitioner (s)

Versus

Union of India & Ors. _____ Respondent (s)

Mr. Vineet Mathur, _____ Advocate for the Respondent (s)



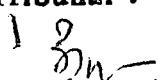
CORAM :

The Hon'ble Mr. A.K. Misra, Judicial Member

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? No
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No


(Gopal Singh)
Adm. Member


(A.K. Misra)
Judl. Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 5.4.2000

O.A. No. 213/1997

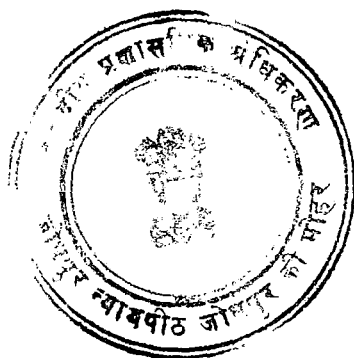
Shree Bhagwan, son of Shri Balu Ram, by caste Hindu, aged about 58 years, resident of 163, Van Vihar Ward No. 3, Churu, presently working as H.S.G., S.A., in the office of the Railway Mail Service, Churu.

... Applicant.

v e r s u s

1. Union of Inida through the Secretary to the Government of India, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Post Master General, Western Region, Jodhpur.
4. Superintendent, Railway Mail Service, ST Dn., Jodhpur.

... Respondents.



Mr. B. Khan, Adv., Brief holder for Mr. P.N. Jatti, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Shree Bhagwan, has prayed for setting aside the impugned order dated 6.6.96 at Annexure A/1 and for a direction to the respondents to grant him the benefit under BCR Scheme with effect from 1.10.91 at par with his juniors with all consequential benefits.

2. Undisputed facts of the case are that the applicant while working as Sorting Assistant was allowed to appear in the

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examination in February, 1981, for promotion to Lower Selection Grade (LSG) under one third quota and was declared successful. The applicant was appointed to LSG on 30.11.83, while his juniors namely, Shri Bhola Ram, Shri Ganga Ram and Shri Hem Raj were appointed as such on 19.9.84, 23.3.85 and 9.8.85 respectively as is evident from respondents' letter dated 3.1.1990 (Annexure A/4). A scheme called Biennial Cadre Review Scheme was introduced in the respondent department during the year 1991 and the applicant was promoted under this scheme to the scale of Rs. 1600-2660 with effect from 1.1.93 (Annexure A/5). Subsequently, the benefits of BCR Scheme was extended to the juniors of the applicant with effect from 1.10.91 vide respondents' letter dated 6.6.96 (Annexure A/1). Feeling aggrieved, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply. Contesting the application, it has been pointed out by the respondents that though the applicant had passed the examination for promotion to LSG in 1981, he was not promoted to LSG under one-third quota as a punishment of recovery of Rs. 3600/- was current at that time and the applicant was promoted to LSG on 30.11.83 under OTBP Scheme effective from 30.11.83. The juniors of the applicant, named above were promoted to LSG on 30.11.83 under one-third quota on the basis of the examination passed in 1981 and their seniority was fixed above the applicant. It has further been stated that the promotion of the above mentioned juniors to the LSG was antedated to 1.10.91 as one of their juniors was given the benefit of BCR Scheme with effect from 1.10.91. It is the contention of the respondents that the applicant had lost his seniority because he was not promoted to LSG under one-third quota as he was suffering the punishment at the relevant time while his juniors were promoted to LSG under one-third quota.

4. We have heard the learned counsel for the parties and perused the records of the case.

5. Argument adduced by the respondents that the applicant lost seniority as he was not promoted to LSG under one-third quota does not find support from the records placed before us and, therefore, it seems to be an after thought. It is clear from Annexure A/4 that the applicant was promoted to LSG cadre on 30.11.83 while the juniors named above were appointed to LSG cadre on 19.9.84, 23.3.85 and 9.8.85 respectively. Similarly, the argument that ^{he} could not be promoted as LSG under one-third quota since he was suffering

Capable of



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punishment at the relevant time does not seem tenable. If that was the case, the juniors should have been promoted earlier to the applicant. But this is not the case. The respondents have also not produced any seniority list which could show that the applicant has lost seniority. In fact, none of the arguments adduced by the respondents are supported by the documents placed on records. The respondents have not placed any document in support of their contention. The case of penalty of recovery of Rs. 3600/- from the applicant also becomes ineffective after the revision of this penalty to censure as the penalty of censure is not a bar for promotion as per the established law. Thus, in our view, the applicant would continue to be senior to S/Shri Bhola Ram, Ganga Ram and Hem Raj and would also be entitled to promotion to LSG with effect from 1.10.91 at par with his juniors.



6. In the light of the above discussion, the O.A. deserves to be allowed.

7. The O.A. is accordingly allowed with a direction to the respondents to treat the applicant as senior to S/Shri Bhola Ram, Ganga Ram and Hem Raj and consider him under BCR Scheme for promotion to LSG cadre with effect from 1.10.91 at par with his juniors with all consequential benefits, like arrears of pay and allowances and promotion etc., within a period of three months from the date of receipt of a copy of this order.

8. There shall be no order as to costs.

Gopal Singh
(Gopal Singh)
Adm. Member

A.K. Misra
(A.K. Misra)
Judl. Member

cvr.

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Vignit malheur

Part II and III destroyed
in my presence on 16.12.06
under the supervision of
section officer (J) as per
order dated 23.1.86

Section officer (Records)

Copy sent to applicant
Vide No. 92
Dt. 19/4/2005

AD Registrar Appli
Canit find 15.007
AD filed in 11/11/05
8/4/05