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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R

Date of Order : 30.11.2000

O.A. No. 68/1997

Mohd. Idrees Ansari S/O Sh. Mohammad Iliyas, aged about 36 years, R/O Gali Ramdwara, Ghoran Ka Chowk inside Sojati Gate, Jodhpur, at present employed on the post of Section Supervisor (LSG) in the office of Postmaster General, Rajasthan Western Region, Jodhpur.

... Applicant

vs

1. Union of India, through Secretary to G/I, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Postmaster General, Rajasthan Western Region, Jodhpur.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. Vineet Mathur, Counsel for the Respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

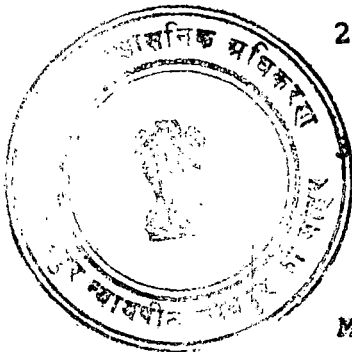
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(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Mohd. Idrees Ansari has prayed for setting aside the impugned orders dated 24.9.1996 (Annexure A/1) and 30.9.1996 (Annexure A/2) and for a direction to the respondents to consider the case of the applicant for promotion to the post of HSG-II scale Rs.1600-2660 under BCR scheme at par with his next junior w.e.f.

Gopal Singh

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26.6.1996 with all consequential benefits.

2. Applicant's case is that he was initially appointed on the post of Postal Assistant on 20.9.1979 with the respondent department. He was promoted to the post of UDC on 02.9.'85 on passing the requisite examination. Subsequently, the applicant had also passed the competitive examination for 1/3rd quota in Lower Selection Grade against the vacancies of 1992, and accordingly, the applicant was promoted to the post of Lower Selection Grade (F) Clerk in the pay scale of Rs.1400-2300 vide respondents' order dated 01.2.1993. The applicant was posted to work against the Supervisor of LSG vide respondents' letter dated 18.5.1993. In terms of respondents' letter dated 22.7.'93 (Annexure A/5) the Time Bound One Promotion Scheme was extended to Group 'C' Staff of Administrative Offices (Circle Offices) and the scheme was made effective w.e.f. 26.6.'93. First promotion was to be accorded after rendering 16 years of service under Time Bound One Promotion scheme and second promotion after 26 years of satisfactory service under the Biennial Cadre Review Scheme. At the time of introduction of the scheme, the applicant was not eligible for consideration for promotion under the scheme as he had not completed 16 years of service. However, some of his juniors were given the benefit of promotions under the scheme thus, creating anomaly. The applicant had earned his promotion to the post of LSG (F) Clerk scale Rs.1400-2300 after passing the competitive examination for 1/3rd quota in Lower Selection Grade, whereas his juniors who had completed 16/26 years of service were granted the scale of Rs.1600-2660/5000-8000 w.e.f. 26.6.1993 under the scheme. With a view to remove this anomaly, the respondent department recommended the grant of higher scale to LSG of 1/3rd quota under TBOP/BCR scheme



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4. Though the case of the applicant was rejected vide respondents' letter dated 30.9.1996 (Annexure A/2). However, he has now been given promotion to the scale of Rs.1600-2660/5000-8000 w.e.f. 26.5.1993 at par with his junior vide respondents' letter dated 19.3.1998 (Annexure A/13). The only question now remains to be decided ^{is} with regard to payment of arrears for the period from 26.6.1993 till 19.3.'98 (date of issue of order). During the arguments, it has been pointed out by the learned Counsel for the respondents that arrears of pay fixation had not been allowed to the applicant since he did not submit option for TBOP/BCR scheme. Here, it is pointed out ^{that} when TBOP/BCR scheme were introduced, the applicant was not eligible for consideration under those schemes as he had not completed 16 years of service. Therefore, there was no question of his submitting any option for the scheme. The scheme has been made applicable to him and similarly other situated persons vide modification dated 8.2.96 so as to remove the anomaly between seniors and juniors. It is also seen that in similar circumstances, other employees have been given the benefit of arrears of pay fixation from the initial date of placement in the higher scale under the BCR scheme as is clear from the respondents' letter dated 18.6.1996 (Annexure A/14). In the circumstances, we are of the view that arguments advanced by the respondents in not allowing the arrears of pay fixation to the applicant because of non-submission of option is not tenable. We, therefore, find much merit in this application and the same deserves to be allowed.

4. The Original Application is accordingly allowed and the respondents are directed to pay to the applicant

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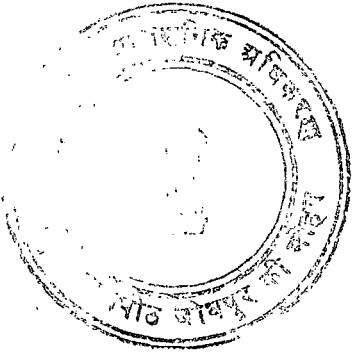
whose seniority had been adversely effected by implementation of BCR scheme placing their juniors in the next higher scale of Rs.1600-2660 and revised scale of Rs.5000-8000 with effect from 26.6.'93. Accordingly, the applicant was promoted to the scale of Rs.5000-8000 vide respondents' letter dated 19.3.1998 (Annexure A/13), but he was given notional fixation of pay and actual benefit from the date of assumption of charge in the grade. It is the contention of the applicant that in the similar circumstances, ^{respondents} have allowed arrears of pay fixation to others vide their letter dated 18.6.'96 (Annexure A/14). It has, therefore, been contended by the applicant that he has been discriminated. Hence, this application.

3. In the counter, it has been stated by the respondents that the applicant had not submitted any option for consideration his case under TBOP/BCR scheme and as such he was not entitled to arrears of fixation of pay in terms of clarification No.5 and 6 of respondents' letter dated 24.9.1996 (Annex. A/1) and accordingly direction of the Tribunal order dated 17.4.'96 in OA. No.168/95 could not be implemented by the Department. It has been pointed out that the applicant earlier approached this Tribunal by O.A. No.168/95, decided on 17.4.96 praying for consideration of his case for promotion to the post of HSG-II scale Rs.1600-2660 under BCR scheme at par with his next junior. The application was allowed with the following observations :

"In the result, we direct the respondents to consider the applicant's case for promotion to the post of HSG-II scale Rs.1600-2660 under the instructions regarding modifications of TBOP/BCR Scheme, referred to above, within a period of four months from the date of receipt of a copy of this order. If the applicant is granted promotion to the post of HSG-II scale Rs.1600-2660, he shall be entitled to all consequential benefits. The OA is allowed accordingly with no order as to costs."

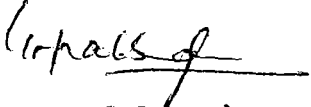
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arrears of difference of pay fixation in the scale of Rs.1600-2660/5000-8000 with effect from 26.6.1993 till the date the applicant assumed the charge of that scale within a period of three months from the date of receipt of copy of this order.

5. Parties are left to bear their own costs.

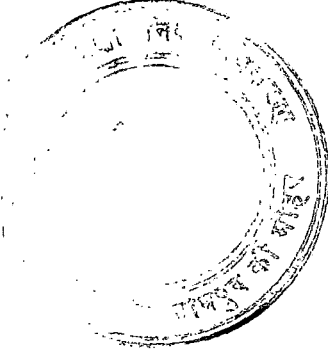


(GOPAL SINGH)
Adm. Member



(B.S. RAIKOTE)
Vice Chairman

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H.S. Gwill
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for V.K. Mather

Part II and III destroyed
in my presence on 29.1.07
under the supervision of
section officer as per
order dated 18/1/06

Section officer (Record)

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on 2/12
C/S