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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JHODHPUR.**

Original Application Nos. 232/2004 to 234/2004

Date of Decision: 24.09.2004

Hon'ble Mr. G.R. Patwardhan, Administrative Member.

Sultan Ahmed, son of Shri Fakir Mohammad, aged 58 years
Assistant Post Master, Head Office, Chittorgarh, r/o 103-D Sector
5 Gandhi Nagar Chittorgarh.

Brij Mohan Rathore, S/o Shri Dil Sukh, aged 55 years, Assistant
Post Master, Head Office, Chittorgarh r/o 18 D Panchwati,
Chittorgarh.

Mohar Singh S/o Shri Babu Singh aged 57 years Assistant Post
Master, Head Office, Chittorgarh r/o 18 D Panchwati,
Chittorgarh.

R.P. Saxena, S/o Shri Omkar Lal, aged 55 years, Sub Post
Master, Collectorate, Chittorgarh, r/o Near Mashid
Kumbhanagar, Chittorgarh.

N L Vairagi s/o Shri Ratan Lal, aged 55 years, Sub Post Master,
Village Singhpur, Dist. Chittorgarh.

Applicants in O.A.No. 232/2004

Rakesh Kumar Gupta S/o Shri J P Gupta, aged 51 years,
Accountant, Divisional Post Office, Chittorgarh, r/o E-16, Bapu
Nagar, Chittorgarh.

Vimal Kumar Kothari nS/o Shri U L Kothari, aged 51 years,
Accountant, Head Post Officer, Chittorgarh r/o D.49 Bapu Nagar,
Chittorgarh.

Bhanwar Lal Son of Shri Mehant Das, aged 53 years, Accountant,
Head Post office, Chittorgarh, r/o Ch 8 Kumbha Nagar,
Chittorgarh.

Applicants in O.A.No. 233/2004

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Ranjeet Singh Jain, S/o Shri Himmat Lal aged 47 years, Postal Assistant, Head Post Office, Chittorgarh, r/o Kapasan, Dist. Chittorgarh.

Babu Lal Singhvi, s/o Shri Madhu Lal, aged 48 years, Postal Assistant, Head Post Office, Chittorgarh, r/o 2B, Pannadhai Colony, Dist. Chittorgarh.

K C Joshi S/o Shri Ram Chandra, aged 53 years, Sub Post Master, Kailash Nagar, Chittorgarh, r/o Kailash Nagar, Nimbahera, Dist. Chittorgarh.

C.M. Chandaliya, S/o Shri Sohan Lal, aged 48 years, Sub Post Master, C.F. Chittorgarh, r/o 5-C Bapu Nagar, Chittorgarh

Ganpat Singh Son of Shri Dharam Singh aged 45 years, Office Assistant, Divisional Post Office, Chittorgarh.

Om Prakash Purohit Son of Shri Nand Lal, aged 50 years, Office Assistant, Divisional Post Office, Chittorgarh, r/o Village Gangral, Dist. Chittorgarh.

: Applicants in O.A. No. 234/2004

rep. By Mr. Vijay Mehta: Counsel for the applicants in all the three OAs.

Versus

1. Union of India through the Secretary to the Government, Ministry of Communication (Deptt. Of Posts) Sanchar Bhawan, New Delhi.
2. Post Master General Rajasthan , Southern Region, Ajmer.
3. Chief Post Master General, Rajasthan Circle, Jaipur.
4. Senior Superintendent of Post Offices, Chittorgarh.

: Respondents in all the O.As.

ORDER

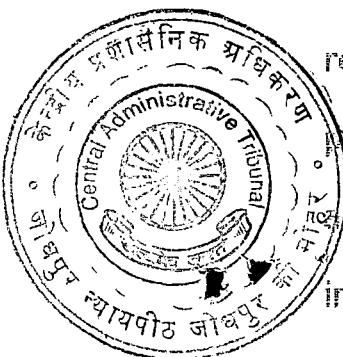
Mr. G.R. PATWARDHAN, Member(A)

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These three applications are preferred by Sultan Ahmad and others working as Assistant Post Masters & Sub Post Masters

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Accountants, Postal Assistants and Office Assistants under the Post Master General, Southern Region Rajasthan, Ajmer and Senior Superintendent of Post Offices, Chittorgarh who are respondents No. 2 and 4 along with the UOI through the Secretary to the government, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi and the Chief Post Master General, Rajasthan Circle, Jaipur.

2. It is specifically mentioned that these applications are not against any written order but against an apprehended transfer in an arbitrary manner (vide paragraph 8(d)). Through the detailed submissions contained in the applications, the applicants want to impress that this shifting or transfer or posting is likely result of incorrect appreciation of the process of different personnel policies of the department relating to grant of TBOP and BCR scales which also have a bearing on seniority as also incorrectly holding that such placement in TBOP and BCR scales was not a promotion and thus placing the applicants to different positions not commensurate with the seniority they are entitled to. In particular attention has been drawn to an order of the C.A.T Madras Bench in OA No. 679/2003 decided on 19.3.2004 in which the UOI in the Deptt. Of Posts, the Chief Post Master General, Tamil Nadu and the Superintendent of Post Offices, Tambaram, Chennai, were the respondents and where, the main issues revolved around the nature of promotions given under different schemes-whether they were only financial



upgradations or promotion in the real sense. Nothing more is required to make the matter clear than quoting paragraph 7 and 8 of this order which is as follows:-

"7. On going through the facts, we do not subscribe to this reply of the respondents. As mentioned earlier, in all correspondences and letters issued by the respondents from 1991 to 1993 it has been specifically mentioned that OTBP/BCR are promotions and they correspond to LSG and HSG II. There was not even a whisper as to the fact that the so called promotions were only financial upgradations. What we can infer now is that the respondents have invented the term 'financial upgradations' now and want to apply this term in retrospect in respect of the promotions given to the applicants way back in 1991. In our opinion such actions on the part of the respondents is totally illegal and is incorrect. They cannot change the nomenclature, viz. promotions made already to that of financial upgradations and deny the consequential benefits after a lapse of 11 years and that too without putting the applicants on notice. It is by now well settled that in matters relating to seniority, settled issues should not be disturbed/distorted after a long lapse of time. When the respondents gave the state of promotions to the HSG 11 in the year 1992, the applicants have a legitimate expectation which they have been nurturing since 1992. Now that the settled position cannot be unsettled in the year 2002 and without assigning any reasons and, the contention of the respondents that the promotions given earlier are to be construed only as financial upgradations in our considered view cannot be accepted as the same is unreasonable and such an argument goes against the letter and spirit of the communications issued by the respondents themselves from 1991 to 1993. Therefore, this argument put forward by the respondents has to fall.

8. It is true that the respondents may have problems relating to appointment of proper persons to man the supervisory posts. But, at the same time, the respondents by their own letters have communicated that an employee is entitled for a minimum of two promotions in the manner it is required. Therefore there is no use of mixing up of the promotional problem and placement aspects and these are totally unrelated and are guided by different norms. Further, as the respondents have brought out the new RRs. 2002, it goes without saying that these rules will be effective prospectively. There is no scope for retrospectivity with regard to application of the RRs which came in 2002. On the other hand, the 1976 Rules have been in operation all along and the respondents have no other option but only to follow these Rules till they were properly amended or replaced. The action of the respondents in trying to find solution to solve the problem relating to promotion and placement of employees in supervisory posts by juxtaposing the RRs and administrative instruction cannot be sustained. As mentioned earlier, the RRs will have to be acted upon strictly, as they are framed. On the other hand, there is enough scope for placement of appropriate officers to man the jobs after suitable training etc., through administrative means. There is no point in mixing up both and trying to find a solution."



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3. The learned counsel for the applicants Mr. Mehta has strenuously argued that while on the one hand, respondents have mixed up number of issues with regard to interpretation of their own orders and circulars on the other, any such exercise is likely to disturb the applicant from their present post which calls for immediate intervention by way of granting interim relief. He specifically mentioned vide paragraph 9 of the application that the respondents may kindly be restrained from removing the applicants from present posts on the ground that employees holding norm based posts are now available.



4. On being asked whether any other remedy was available to the applicants to get immediate relief, Mr. Mehta submits that in view of the issues involved and the fact that the applicants are low paid staff it would be only appropriate that the Tribunal comes to their assistance.

5. In view of the fact that the CAT Madras Bench has already considered the matter and delivered a clear order which appears to be applicable in the instant case, it would meet the ends of justice if the respondents are directed to consider the matter in the light of the order pronounced, as mentioned above and take into consideration the points raised in the application.

[Handwritten signature]

 It is, therefore, ordered that the respondents shall treat this O.A. as a representation and dispose it by a detailed and reasoned order within three months. In the meantime, they are restrained from making any transfers solely based on the points raised in the application. With these orders, the applications are disposed of.

[Signature]
(G.R. PATWARDHAN)
MEMBER(A)

jrm / lalit

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M/s
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Copy of order of 24/9/04
along with Name of D/s No -

232/04 to 234/04, p. 35
copy sent to R-1 & R-4,
Ind. No 244 to 247
dt. 27.9.04

R. 2, R-4 Copy of order with p. 35, copy served on
Pass A.D. named, R