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Mr. Vijay Mehta,

Versus

CORAM :

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

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

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

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Dr. J. R. ...

**Central Administrative Tribunal
Jodhpur Bench, Jodhpur**

Original Application No. 278/2004
Date of Decision : This the 8th day of November, 2004.

Hon'ble Mr. J.K. Kaushik, Judicial Member

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

1. Vishnu Lal Tailor S/o Shri Kanhaiya Lal aged 56 years, Assistant Post Master Accounts, Head Office, Post Offices, Udaipur R/o 21, Pathon Ki Gali, Udaipur.
2. Vijay Kumar Sharma S/o Shri Kesho Ram aged 58 years, Assistant Post Master, Shastri Circle, Udaipur R/o 25 P&T Colony, Udaipur.
3. Nathu Lal Sanadhyia S/o Shri Champa Lal Aged 58 years Assistant Post Master, Post Office, Shastri Nagar Post Office, Udaipur, R/o 29 Laxmi Marg, Udaipur.

.....Applicants.

[By Mr. Vijay Mehta, Advocate, for applicants.]

Versus

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

.....Respondents.



ORDER

[BY G.R.PATWARDHAN, ADMV. MEMBER]

This O.A. has been preferred by Vishnu Lal , Vijay Kumar and Nathu Lal, all working as Assistant Post Masters in different

Post Offices of Udaipur area of Senior Superintendent of Post Offices, Udaipur, who is respondent No. 4. The respondents No. 1, 2 and 3 respectively are the Union of India, Post Master General Rajasthan, Ajmer and the Chief Post Master General, Jaipur.

2. Admittedly, the application is not directed against any written order but, it is being made against denial of promotion to the applicants to the post of HSG-I by changing their seniority position under the alleged garb of amendment in the rules. The application is very detailed and after traversing through the history of different modes of giving promotion to the staff like TBOP & BCR, it prays through paragraph 8 that the impugned order placed at Annex. A/14 dated 12.11.2002 contained in the Department of Posts letter No. 4/16-2002 - SPB - II - be quashed and the respondents restrained from altering or modifying the circle level seniority position of the applicants as also the circle level gradation list to the detriment of the applicants. It is also prayed that the respondents be directed to act further on the existing seniority position of the applicants in the current circle level gradation list and consider them for promotion to the post of H.S.G - I and also to post the applicants accordingly on norm based posts. As a measure of abundant caution, in para 9, by way of interim relief, it is prayed that the respondents be restrained from making alteration and modification in the circle level combined seniority list of Postal Assistants, LSG and HSG-II and from changing the position of the applicants in the gradation list. It is also prayed that respondents



be restrained from removing the applicants from present post solely on the ground that employees holding norm based posts may become available.

3. In order to appreciate the case of the applicants, it may be necessary to record briefly some of the significant changes in promotional policy brought about by the respondent-department in the last few years. We may proceed chronologically.

(a) The P & T (Selection posts) Recruitment Rules, 1976, provide for promotion to 1/3rd vacancies in lower selection grade cadre through competitive examination for those employees completing ten years of service and the remaining 2/3rd vacancies are required to be filled-in on the basis of seniority-cum-fitness.

(b) Some time in 1983, the respondents introduced a scheme called 'Time Bound One Promotion Scheme' (TBOP) to give promotion to staff of Group 'C' and 'D' employees completing sixteen years of service and declaring that this promotion would be equivalent to the grant of LSG.

(c) (Therefore) in 1984 the Director General (Posts) took a decision that no competitive examination as envisaged under Recruitment Rules of 1976 would be held.

(d) In 1985, then 1986 and 1990, orders were issued that those holding LSG posts even after promotion under TBOP were to perform operating duties and for that purpose combined gradation list for circle level was to



be maintained though under TBOP the department divisionalised the LSG cadre which was earlier a circle cadre.

- (e) In 1991, the Director General ordered that as large number of LSG officials were to be available as a result of implementation of TBOP, these could be posted to smaller SBCOs which were being manned by the UDCs.
- (f) In 1991, another scheme called 'Biennial Cadre Review' (BCR) was introduced for those completing twenty six years of service and they were made eligible for promotion to HSG - II, it was provided that they would be undertaking supervisory responsibilities.
- (g) Between 1992 to 1999, the Director General clarified that promotion of BCR promotees and their transfer would be centralized at circle basis and that for getting HSG-II level or BCR the question of regular LSG or TBOP was not relevant.
- (h) In year 2002, the respondents further clarified that norm based LSG/HSG-II posts may be filled up in terms of relevant recruitment rules (meaning thereby since 1983 when holding of examination was stopped) and that promotion to the upgraded post of HSG-I would be made in accordance with rules from amongst those formerly appointed in HSG-II with requisite three years service.



4. After having described this chronology, the applicants specifically draw attention to the fact that the holding of recruitment examination under the 1976 Rules was stopped and

TBOP and BCR promotees were asked to work on higher post but, with the latest instruction of 2002 such appointees/promotees become ineligible for being posted against norm based vacancies stipulated under 1976 Rules. It is their further claim that the applicants were promoted to LSG under TBOP and further BCR and had shouldered higher responsibilities, got their pay fixed and are thus holding promotional post and are thus in no way different from those who were promoted to LSG and HSG - II under the 1976 Rules as such and, therefore, the department is estopped from saying in 2002 that further promotions would be made only on the basis of those who were promoted in real sense of the term. In short, their claim is that once they have come to hold posts under TBOP and BCR Schemes, it should be held that they were holding post of promotion and not mere financial upgradation. They draw support in this regard from an order of C.A.T. Chennai Bench delivered in K. Perumal and M. R. Ramasawmy Vs. the Director General of Posts and Ors. in O.A. No. 679 of 2003 decided on 19.3.2004 by D.B. They have also sought support from orders passed on 24.9.2004 in O.A. No. 232-234 of 2004 by C.A.T., Jodhpur.



5. We have heard the learned counsel for the applicant and in view of the averments made in the application and the orders of the C.A.T. Chennai Bench, relied upon by the applicant as above, feel that the issues are identical. There also the applicants joined the department in the year 1985 on the basis of Recruitment Rules 1976 and were entitled to get promotion under the 1/3rd

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quota of vacancies through a limited competitive departmental examination. In the instant case also we find that the three applicants joined the department some time in 1967 and 1968), the Scheme of limited competitive examination got discontinued in 1985 with the introduction of TBOP and subsequently under BCR benefits of which were enjoyed by the applicants. Just when they were expecting further promotion to HSG - I level, the respondents introduced different schemes in the year 2002 to man the supervisory post and the seniority of those applicants was changed by about nine years. After detailed hearing of both the parties and perusal of records, the Chennai Bench of the Tribunal came to the conclusion that the department unilaterally changed the date of those applicants from 1991 to 2002 by affording explanation that their earlier promotions were only by nature of financial upgradations and could not be termed promotions in the sense of term. The Tribunal finally came to the conclusion that this logic was not acceptable and, therefore, the applicants were justified in claiming the relief and were entitled to be considered for further promotion.



6. Based on this decision, a single member Bench of this Tribunal also considered the prayer of five applicants similarly situated being Assistant Post Masters Sub Post Masters, Accountants etc. and directed the respondents to treat the O.A. as a representation and dispose it by a detailed and reasoned order within three months. In the instant case also we find that the issues involved are nearly similar and, therefore, it would meet

the ends of justice if the respondents in the instant application are also directed to treat this O.A. as a representation and pass a detailed and reasoned order after consideration within three months. By way of interim relief, we also direct that during this period of three months, the respondents shall not make any transfer solely on the basis of points raised in the application. With this direction, the O.A. is disposed of with no orders as to costs.



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[G.R.Patwardhan]
Administrative Member

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[J.K.Kaushik]
Judicial Member

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