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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, Jodhpur**

Original Application Nos.36/2005

Date of decision: 28th August, 2008

Hon'ble Mr. Justice M. Ramachandran, Vice Chairman.

Hon'ble Mr. Tarsem Lal, Administrative Member.

Ghisu Lal Prajapat, S/o of Shri Ghamanda Ramji aged 60 years resident of 25 A Shramikpura Masuria, Jodhpur at present retired as Sub Post Master, Jodhpur City, Jodhpur.

: applicant.

Rep. By Mr. Ashok Prajapat : Counsel for the applicant.

VERSUS

1. Union of India, through the Secretary Ministry of Communication, Department of Post, Dak Bhawan Parliament Street, New Delhi.
2. The Principal Chief Post Master General, Rajasthan, Jaipur.
3. The Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur.

: Respondents.

Rep. By Mr. M. Godara, proxy counsel
For Mr. Vinit Mathur, : Counsel for the respondents.

ORDER

Per Mr. Justice M. Ramachandran, Vice Chairman.

In this O.A, the applicant seeks to quash Annex. A/1 and A/2, proceedings of the respondents. Vide Annex. A/1 dated 15.01.2004, the applicant was informed that his request for change of date of BCR promotion was considered by review DPC and the review DPC after going through the case noticed that the applicant was ordered promotion under BCR (Biennial Cadre Review) from 01.01.2000, but since the applicant had declined the promotion, the refusal had the effect of postponement of promotion by a year

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and therefore the review DPC did not recommend any change in his date of promotion.

2. Vide Annex. A/2 dated 09.04.2001, the Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur, had informed the applicant that as the date of appointment in PA cadre was 25.05.73, he was due for BCR promotion with effect from 01.07.1999, after 26 years of service, but due to the presence of dies non for a period of 102 days, where no pay had been drawn, nor any leave was granted in respect of the applicant, the said period necessarily had to be reduced from the total eligibility service of 26 years. Consequently the date required to be pushed down from 01.07.99.

3. It is seen that the applicant had not challenged the above entry as incorrect in his records at the appropriate time. Therefore, in this proceeding, we are not in a position to entertain Annex. A/2 and the same cannot be interfered with. For the next year the applicant had been considered for promotion and he was granted BCR promotion with effect from 01.01.2000, but the applicant had declined to accept it. Necessarily, this conduct of the applicant justified the bar of promotion by one year and this position was made known by issuing Annex. A/1. Taking into account the appeal filed by the applicant, the Director of Postal services, Jodhpur had ordered his promotion under BCR Scheme with effect from 01.01.2000 vide memo dated 25.10.2005. The said memo was issued during the pendency of present OA.

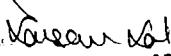
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Therefore, we are of the view that Annex. A/1 is of no consequence since the possible relief has been already extended to him.

4. We find that the department had sympathetically considered the case of the applicant and they have given him the promotion under BCR scheme even by straining themselves. In the aforesaid circumstances, there is no justification for passing any further orders. We accept the submissions made by the respondents in their reply statement dated 26.07.2006. The applicant would be entitled to arrears as per his date of promotion under BCR scheme, as ordered by the respondents now.

5. In the result, the O.A is devoid of any merit and the same is hereby dismissed. We make no order as to costs.


[Tarsem Lal]
Administrative Member

jsv


[Justice M. Ramachandran]
Vice Chairman.

Received copy
Signature
02/09/08

GR