

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00007/2010

Jodhpur this the 26th September, 2014

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

U R Meena S/o Shri Chatra Ram, aged about 53 years, resident of C/o Shri Soni Advocate, Near Bhawna School, Bhagat Ki Kothi, Jodhpur, at present employed on the post of Assistant Post Master in Head Office, Jodhpur.

.....Applicants

By Advocate: Mr J.K. Mishra.

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Communication & Info Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Cicle, Jaipur.
3. Shri P.K. Sharma, HSG-I, Post Master, Secretariat Post Office, Jaipur.
4. Shir M L Nagar, HSG-I, Post Master, Jaipur City Post Office, Jaipur.

.....Respondents

By Advocate : Mr Aditya Singhi proxy Counsel for Ms K. Parveen.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- (i) The impugned order dated 27.08.2008, Annexure A/3, seniority list (LSG) dated 13.07.2007, Annexure A/1 and Seniority List of HSG-II 3.4.2008, Annexure A/2, passed by 2nd respondent, may be declared illegal and the same may be quashed. The respondents may kindly be directed to assign the due seniority to the applicant on the post of LSG (NB) and further as per the rules in force, so as to by place his name above the persons as Sl. No. 15 to 30 in Annexure A/2 and he may be allowed with all consequential benefits.
- (ii) The official respondent may be directed to produce the details of norm based vacancies for the post of LSG during the period from 1983 to 24.01.2002 and also the names of persons promoted on particular points thereof as per the rules in force at the relevant time.
- (iii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

2. The brief facts of the case, as stated by the applicant, are that the applicant was initially appointed to the post of Postal Assistant on 21.03.1976 in the respondent-department. He was granted benefits of TBOP and BCR after rendering 16 and 26 years of service w.e.f. 25.03.1992 and 01.07.2002 respectively. The applicant was promoted to norm based post of LSG vide memo dated 09.09.2004, HSG-II (NB) vide letter dated 08.02.2008 and was ordered to be promoted to the post of HSG-I on ad hoc basis and posted as Postmaster Sambhar Lake HO vide 2nd respondent letter dated

23.09.2008 and the same has been cancelled due to subsequent disciplinary case and he challenged it before this Tribunal. The respondent-department issued revised guidelines pointing out that placement under TBOP/BCR Schemes are based on length of service and not on the criterion of seniority. The departmental authorities took recourse to reconcile the matter and issued revised recruitment rules for filling up the post of LSG and HSG-II on 24.01.2002 (Annex. A/4). The RRs have been further amended in 2006 and the matter has been further amplified vide OM dated 22.05.2007 (Annex. A/5). The applicant and some others were promoted to the post of LSG (NB) vide order dated 09.09.2004 and he joined on 25.09.2004 (Annex. A/6). Shri P.K. Sharma alongwith 15 others passed the departmental examination for the Fast Track Promotion to LSG Cadre vide letter dated 06.10.2014 (Annex. A/7) and Shri P.K. Sharma joined on 05.11.2004 (Annex. A/8). The gradation list of LSG Supervisors (Norm Based) as on 01.07.2006 (Annex. A/9), supplied to the applicant on 15.03.2007, contains the name of the applicant placed at S.No. 6 and Shri P.K. Sharma (respondent No. 4) at S.No. 8. The second respondent has issued a seniority list for the post of LSG as on June, 2007 (Annex. A/1) in which the applicant has been shown at Sl. No. 46 whereas his juniors name were placed at Sl. No. 24 to 31, 32 to 37 and 39 to 49 without any basis. The applicant filed representation dated 04.03.2008 (Annex. A/10). The applicant alongwith 15 others including Shri P K Sharma were further promoted to the post of HSG-II vide letter dated 08.02.2008 (Annex. A/11) and the name of the applicant is placed at

S.No. 15 whereas shri P.K. Sharma junior to the applicant was placed at S.No. 13 of the same order. The 2nd respondent issued seniority list of HSG-II as on 31.03.2008 (Annex. A/2) and the name of the applicant has been placed at S. No. 31 and his juniors were placed at between S.No. 15 to 30 including respondent No. 3 & 4. The respondent-department informed the applicant vide letter dated 28.04.2008 (Annex. A/12) that the seniority on the post of LSG (NB) is not assigned from the date of joining on the promotional post but from the position in the DPC/Fast Track Examination. The applicant submitted representation towards rules position for assignment of seniority vide letters dated 25.06.2008 & 08.04.2008 (Annex. A/13) but the same were turned down vide letter dated 27.08.2008 (Annex. A/3), therefore, the applicant has filed this OA seeking reliefs mentioned in para No. 1.

3. The respondents by way of filing reply have denied the right of the applicant and submitted that in pursuance of the orders of the Principal Chief Postmaster General Rajasthan Circle, Jaipur letter dated 11.02.2003, proposal for promotion in LSG (NB) 1/3rd quota in respect of 32 officials was submitted to Regional Office Jodhpur for consideration in which the name of the applicant was also proposed at S. No. 27. As per the orders/minutes of DPC, the applicant was not considered for promotion to LSG NB cadre 1/3rd quota at that time. The applicant while working as PA BCR Pali Division was promoted in LSG NB cadre and joined as LSG NB on 24.09.2004 and CPMG Jaipur issued circle seniority list of LSG Cadre on June,

2007. The qualified candidates of Fast Track LSG and seniority cum fitness were arranged in correct manner because as per the roster points SC and ST, points for DPC and fast track exams, 2004 were also included as per merit of DPC as well as fast track exam and not as per the date of joining in LSG NB post. Shri P.K. Sharma who qualified the departmental fast track LSG exams held on 26-28.05.2004 for the vacancies of 2004 joined on 05.11.2004. The HSG II promotion was considered as per the seniority list of LSG NB in which the applicant was placed below Shri P.K. Sharma which is correct. The decision against the representation of the applicant dated 03.06.2008 and reminder dated 07.11.2009 have already been considered by the competent authority and informed him vide letter dated 21.07.2010 that 11 LSG NB posts were sanctioned in Pali Division. One Shri Mohan Lal Rathore ST candidate who was senior from the applicant was considered for LSG NB promotion but due to disciplinary action he was not found fit and the applicant was junior. Hence his name was not in the zone of candidates considered for LSG NB w.e.f. 30.04.2003. Therefore, respondents prayed to not to interfere into the orders passed by the respondents and dismiss the OA filed by the applicant with costs.

4. Heard both the parties. Counsel for the applicant contended that the applicant has been promoted vide Annexure A/6 order dated 09.09.2004 in the grade of Lower Selection Grade (LSG) Postal Assistant whereas in respect of respondents No. 3 & 4, the promotion order to the post of Lower Selection Grade is at Annex.

A/7 order dated 06.10.2004 and Shri P.K. Sharma and M.L. Nagar i.e. the private respondents No. 3 & 4 respectively joined on 05.11.2004 and 16.10.2004 as per the result declared on 06.10.2004. Annexure A/9 is the Pali-Marwar Division seniority list as on 01.01.2006 of the cadre of Lower Selection Grade (LSG) Postal Assistants in which the applicant was shown at S.No. 06 and Shri P.K. Sharma at S.No. 08. Counsel for the applicant further contended that the earlier rule regarding seniority was that the promotions were to be made at the Divisional Level upto the LSG and Higher Selection Grade (HSG) promotions were to be made at Circle Level and under the earlier rules 1/3rd posts to be filled by promotion through Departmental Competitive Examination from Postal Assistant to LSG and 2/3rd were to be promoted as per seniority. In 1983 TBOP scheme came into force and under the TBOP Scheme the time frame promotions were to be made after 16 and 26 years of service, and from 1983 to 1992 no promotions were made and only benefit of TBOP Scheme were extended to all the candidates. In the year 2002 new rules came into force and in the new rules 1/3rd promotions were to be made by promotion as per seniority and 2/3rd candidates were required to be promoted after passing Departmental Competitive Examination. The applicant was promoted through DPC in the year 2004. By way of Annex. A/1, the respondent-department changed the seniority list of LSG (at circle level as on 06/2007) and refixed the seniority of the applicant at S.No. 46 and the seniority of Shri M.L. Nagar and P.K. Sharma was fixed at S.No. 24 and 37 respectively. The applicant filed

representation Annex. A/10, but the respondent-department rejected the representation of the applicant on the ground that promotions so made are as per circulated seniority, therefore, he has been fixed at S.No. 47 in Annex. A/1. Counsel for the applicant contended that in Annex. A/2 and Annex. A/1 several persons who have also been promoted by DPC have been shown as senior to the applicant and no reason has been assigned for that. Counsel for the applicant contended that Annex. A/1 & A/2 requires to be quashed and further he submits that Annex. A/3 order is also required to be quashed by this Tribunal.

5. Per contra, counsel for the respondents argued the same reasons which have been averred in the reply but on being asked a pointed query made by the Bench, could not give any clear reason and justification as to why persons promoted through DPC were shown senior to the applicant as well as private respondent No. 3 and if the reply of the respondents as averred is perused it does not corroborate the facts with respect to Annex. A/1, A/2 & A/3.

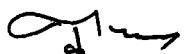
6. In our considered view, the reply itself is not satisfactory in terms of Annex. A/1, A/2 & A/3 and it is admitted position that the applicant was promoted earlier to the respondents i.e. on 09.09.2004 and respondent No. 3 joined on 05.11.2004 and respondent No. 4 joined on 16.10.2004 and therefore, it is not clear as to why & how they can be shown senior in Annex. A/1 & A/2? Accordingly, there are sufficient reasons to quash Annex. A/1, A/2 & A/3 because we

are not satisfied with the position stated by the respondents, as it is contrary to seniority list Annex. A/1 & A/2 and rejection of the representation of the applicant vide Annex. A/3.

7. Consequently, Annex. A/1, A/2 & A/3 are quashed and accordingly, OA is allowed. The respondents are directed to reconsider the seniority list as per law because the applicant has been promoted much earlier i.e. on 09.09.2004 than respondents No. 3 & 4 who joined on promotional posts in October/November, 2004. Accordingly, the respondents are directed to reconsider the seniority list within 6 months from the date of receipt of the order.

8. In terms of above direction, the OA is allowed with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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R/C
monitors taken
15/10/14

R/G
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16/10/14