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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 159/2010

Date of order: 16.09.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Madan Lal Gandhi son of Late Shri Machhi Ram, aged 61 years, R/o House No.D-25, Sector 6L, Hanumangarh Jn.-335512, last employed on the post of SPM (Deputation), Suratgarh City, Distt. Sriganganagar (Raj.)

...Applicant.

Mr. J.K. Mishra, counsel for applicant.

VERSUS

1. The Union of India, through Secretary to the Govt. of India, Ministry of Communication & Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Postmaster General, Western Region, Rajasthan, Jodhpur.
3. The Superintendent of Post Offices, Sriganganagar Division, Sriganganagar-335001(Raj).

... Respondents.

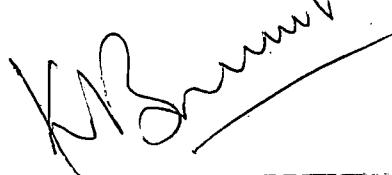
Mr. Ankur Mathur, proxy counsel for
Mr. Vinit Mathur, counsel for respondents

ORDER (Oral)

(Per Dr. K.B. Suresh, Judicial Member)

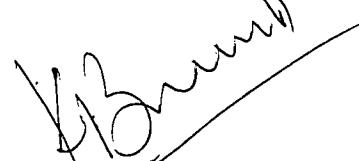
We have heard both the learned counsels and perused the pleadings.

2. The applicant would lament that even though he was initially appointed on 10.04.1975 to the post of Postman at Hanumangarh Junction and thus become eligible for career



8. progression, After his retirement on 31.07.2009, on 15.12.2009 the third respondent issued a notice to the applicant and sought explanation as to why the revisional benefits with retrospective date should not be recovered. And vide order dated 08.02.2010, the benefits of financial upgradation granted to him under BCR scheme had been ordered to be withdrawn. But the apparent reason seems to be that the concerned official, who sat in the DPC, had not mentioned the factum of the pendency of a criminal case vide FIR No.140 dated 12.3.2002 and Case No.500/2003 but since he was appointed on 10.04.1975, then on 10.04.2001 he became qualified for the BCR in the normal ~~cause~~ ^{course}.

3. The respondents would say that the applicant was under suspension from 05.06.1999 to 19.06.2001 i.e. for a period of two years and 15 days, and that period was not counted as qualifying service for financial upgradation under BCR Scheme. Therefore, if two years' more is to be added, then he became eligible for BCR on 25.04.2003 including the 15 days. They would say that Shri N.D. Khan, who was the Member No.2 in the DPC, is now proceeded against for not informing the DPC that a criminal case was pending against him. The pendency or not and a conviction in a criminal case against him is not of the same effect, since Biennial Cadre Review Scheme is intended only as a protection against stagnation, and there cannot be any stipulation that ~~assured~~ ^{Career} ~~carrier~~ ^{bu.} progression must be granted to only those who are fit. Unless there are substantial obstacles, ~~assured~~ ^{Career} progression cannot be needlessly stopped. Besides the applicant had already retired by then.

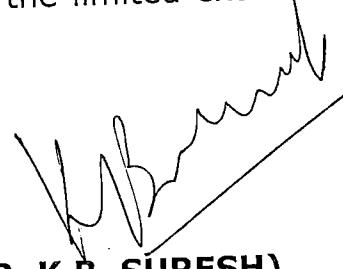


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Rue.

4. By mistake or otherwise, the career progression was granted to him, even though very late. The Hon'ble Apex Court has held that if there is no juncture of the concerned person in the mistake, then the benefits of such mistake cannot be taken back from the concerned applicant. Besides, the applicant having been retired, the procedures and processes are not within the compass of the concerned respondents, who passed the orders. Therefore, cumulatively there cannot be any merit in Annexure-A/1 order and it is hereby quashed. The respondents are directed to allow all the consequences of the career progression to the applicant as it has been granted earlier. The O.A. is allowed to the limited extent as stated above. No order as to costs.



(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER



(DR. K.B. SURESH)
JUDICIAL MEMBER

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