

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 1 of 2009

Tuesday, this the 17th day of November, 2009

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member

Hon'ble Mr. K. George Joseph, Administrative Member

MP Sudhakaran Nair, S/o. Late TK Narayanan Nair,
 Aged 60 years, Retired Sub Postmaster,
 Kannur Civil Station PO, residing at Vighneswara, Near
 Vanivilasam School, PO Chavva,
 Kannur 670 006.

Applicant

(By Advocate – Mr. Shafik M.A.)

V e r s u s

1. Union of India rep by Director General,
 Department of Posts, Dak Bhavan,
 Sansad Marg, New Delhi.

2. The Chief Postmaster General,
 Kerala Circle, Trivandrum 33.

Respondents

(By Advocate – Mrs. Mini R. Menon, ACGSC)

The application having been heard on 17.11.2009, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Dr. K.B.S. Rajan, Judicial Member -

Hon'ble Apex Court in the case of *Sub-Inspector Rooplal v. Lt. Governor, (2000) 1 SCC 644*, held as under:-

12. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every presiding officer of a judicial forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down

time and again that precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bound by the enunciation of law made by the superior courts. A Coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement....

2. The above decision has been cited us to hammer home this point that in the instant case, as per the applicant's counsel, two earlier precedents are available, in which the facts of the case and the law points involved are identical and as such, the same order could well be passed.
3. The case in fact relates to the method by which seniority for promotion to the Lower Selection Grade should be reckoned and according to the counsel for the applicant, the issue has been resolved through the judgment in OA No. 777/2007, vide annexure A-18. This decision has been pronounced by the Tribunal on the basis of an earlier decision in OA Nos 314/07 and 408/07 as reflected in paragraphs 8 and 9 of order dated 28th November 2008 in OA No. 777/2007 and the same read as under:-

"8. The issue for consideration in this O.A. is whether the seniority of the officials promoted to LSG cadre is to be reckoned w.e.f. the date of entry in the basic cadre as per instructions contained in A-6, A-7, A-8 and A11. It is true that prior to 30.11.1983 promotion to LSG cadre was based on the Circle seniority cum eligibility. With effect from 30.11.1983 to 18.5.2006 LSG was a divisional cadre and promotion to the cadre was made from among officials of the respective Postal division on the basis of seniority in those Divisions. As per the amended Recruitment Rules notification on 18.5.2006 (A-12) the promotion to the cadre of LSG is again done at Circle level according to seniority in the Circle. Promotion of Postal Assistants including the applicant to the LSG cadre in 2006 was based on the Circle Gradation List of Postal Assistants published in 1982. Then only the applicant came to know that a few Postal Assistants in other Divisions who joined service later than her were already granted promotion to LSG cadre and further promotions to HSG also. Therefore the introduction of divisionalised seniority of Postal

Assistants w.e.f. 30.11.1983 has adversely affected the promotion of the applicant. Reintroduction of Circle-wise seniority in the cadre of LSG w.e.f. 18.5.2006 rectified this anomaly to certain extent. Similar issue was considered by the Tribunal in OA Nos. 314/07 and 408/2007 relied on by the learned counsel of the applicant. The Tribunal in those OAs held as follows:

"The O.A. Nos. 314/07 and 408/07 are thus allowed. Respondents are directed to conduct a review of promotion to the post of LSG on the basis of Circle seniority prepared on the basis of the merit position in the initial grade of appointment and pass suitable order of promotion. It is left to the respondents that those who are at present holding the post but who on review may not figure in the list of promotees may be retained on super numerary post. If the department would like to revert them the same too shall not be made immediately but after putting such affected persons to due notice, giving sufficient time to respond to the notice. Till then they shall not be reverted."

9. In this view of the matter, we follow the judgment of this Tribunal cited above and declare that the promotion to the LSG cadre is to be made on the basis of merit position in the initial grade of appointment. The respondents are therefore directed to conduct review promotion of the applicant to the post of LSG on the above lines and pass suitable orders of promotion. We further declare that the applicant is entitled to be considered for consequential promotions to the cadre of HSG-II and HSG-I according to her seniority and turn. This exercise shall be done within a period of three months from the date of receipt of this order. The O.A. is allowed as above. No costs."

4. According to the counsel for the applicant, facts in the case of the applicant as well as those of the above mentioned OAs are identical and hence, orders on the same lines as has been passed therein could well be passed. The applicant in this OA has sought the following reliefs:-

"(i) To call for the records relating to Annexure A-1 to A-18 and to quash A-1 and A-1(A), being illegal, arbitrary and violative of the rules relating to the subject;

(ii) To declare that the seniority of the officials promoted to LSG cadre is to be reckoned with effect from the date of entry in the basic cadre as per the instructions contained in A-6, A-7, A-8 and A-11 of the 1st respondent and to direct the 2nd respondent to redraw the

seniority list of officials promoted to LSG cadre as per their date of entry in the basic cadre immediately and to regulate the promotions to HSG made and to be made accordingly;

(iii) To declare that the applicant was entitled to be promoted to the "HSG II" cadre with effect from 19.10.06 with all promotional

benefits with retrospective effect on which his junior at serial 57, Smt. K. Vijayalakshmiyamma, Tirur Division was promoted to HSG II vide Annexure A-13 order as per her seniority in the basic cadre and to direct accordingly and also direct that the applicant be given all consequential benefits;

(iv) To declare that the applicant was entitled to be further promoted to HSG I on adhoc basis, since his junior, Sri P.T. Abdurazak, Manjeri Division was promoted to the HSG Cadre as per Annexure A-15 and since he is presently holding HSG I post on ad-hoc basis and to direct accordingly and also direct that the applicant be given all consequential benefits;

(v) To issue such other appropriate orders or directions this honourable court may deem fit, just and proper in the circumstances of the case

And

(vi) To grant the costs of this Original Application."

5. Counsel for the respondents submitted that though it appears that the facts are identical, yet the same may again shall be verified and in so far as the decision in OA 777/07 is concerned, the order of this Tribunal is under challenge before the High Court.

6. Counsel for the applicant submitted that the applicant would abide by the decision in the afore mentioned writ petition and would be satisfied with the relief that is granted to the applicants in the afore said O.A.

7. In view of the above, this O.A. is allowed to the extent that subject to

the facts of the applicants in this case and those in the afore said O.A. No. 777/07 being identical, respondents shall afford the same relief as granted/being granted to the applicants in OA No. 777/07 as provided for in para 9 of the order in the said O.A.

8. No cost.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(K.B.S. RAJAN)
JUDICIAL MEMBER

“SA”