

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.485 of 1998.

Wednesday, this the 17th day of January, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.Kamalasan Pillai,
Sub Postmaster,
Pathanapuram.

Applicant

(By Advocate Shri O.V.Radhakrishnan)

Vs.

1. Chief Postmaster general,
Kerala Circle,
Thiruvananthapuram.

2. Director of Postal Services,
Southern Region,
Office of the Postmaster General,
Kerala Circle, Thiruvananthapuram.

3. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi. Respondents

(By Advocate Shri K.R. Raj Kumar, ACGSC)

The application having been heard on 17.1.2001, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant has filed this application impugning the
order dated 2.4.1997 issued by the first respondent turning
down the claim of the applicant for promotion to HSG-II w.e.f.
the date on which Shri Govindan Adiyodi was granted promotion
to HSG-II and HSG-I pursuant to the order in O.A. 1092/92 on
par with promotion of their junior Shri P.V.Sreedharan
Nambissan on the ground that earlier confirmation and
consequent promotion given to Shri Sreedharan Nambissan having

been found to be irregular, the same has been reviewed and therefore, the applicant is not entitled to an earlier date of promotion.

2. Admittedly, the applicant is senior to Shri Govindan Adiyodi, the applicant in O.A. 1092/92 who was senior to Shri P.V.Sreedharan Nambissan, was given confirmation with effect from 2.12.1981 and promotion to HSG-II and HSG -I ahead of the applicant. Finding that Shri Govindan Adiyodi agitated the question and obtained an order in his favour in O.A. 1092/92 for ante-dating his promotion to HSG II and HSG-I on par with his junior Shri P.V.Sreedharan Nambissan, the applicant filed O.A. 567/95 claiming that as senior to Shri P.V.Sreedharan Nambissan as also Govindam Adiyodi, he is entitled to be promoted to HSG-II and HSG-I w.e.f. the date on which Shri P.V.Sreedharan Nambissan was promoted. The applicant approached this Tribunal and after considering the rival contentions, the Tribunal found that the seniority in the LSG should be the basis for promotion to HSG and not the date of confirmation in the LSG and that this principle applied in that case also. The Tribunal directed the respondents to consider the request of the applicant for promotion to HSG w.e.f. the date from which Shri PV Sreedharan Nambissan was promoted, in the light of the decision of the Tribunal in O.A. 1092/92 and to pass appropriate orders within three months from that date. Though a Review Application was filed by the respondents it was dismissed by A-11 dated 20.1.1997. Consequently, the respondents were passed A-12 order dated 2.4.1997 rejecting his claim. Aggrieved the applicant filed this application seeking to quash A-12 order and for a direction to the respondents to grant him promotion w.e.f.the

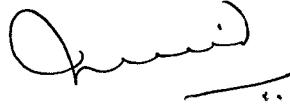
date of promotion of Shri P.V. Sreedharan Nambissan and Shri Govindan Adiyodi with full service benefits including arrears of pay and allowances.

3. The respondents resist the claim of the applicant on the ground that earlier confirmation, seniority and promotion granted to Shri Sreedharan Nambissan was wrong, that the matter was being revised and therefore, the applicant is not entitled to seek earlier promotion w.e.f. the date on which Shri Sreedharan Nambissan was promoted.

4. We have gone through the pleadings and materials placed on record. There is no dispute of the fact that the applicant in this case is senior not only to Shri Sreedharan Nambissan but also to Shri Govindan Adiyodi, the applicant in O.A. 1092/92 by which Shri Govindan Adiyodi has been promoted to HSG-II. The contention of the respondents that the seniority and promotion given to Shri Sreedharan Nambissan is being revised and that the application filed by Shri Sreedharan Nambissan against such action, the O.A.668/97 is pending and that therefore, the applicant is not entitled to seek any relief, have no force at all now in view of the fact that the O.A.668/97 has been allowed and the O.P. filed against that has been dismissed by the Hon'ble High Court of Kerala vide its order dated 13.6.2000 in O.P. No 16613/2000. In view of the undisputed fact that the applicant is senior to Shri Sreedharan Nambissan as also Govindan Adiyodi, we find that there is no justification in denying the applicant the benefits which have been given to them. An identical question came up for consideration before this Bench of the Tribunal in O.A. 851/98 and the Bench by order dated 4.9.2000 allowed the claim of the applicant who was similarly situated like the applicant.

5. In the result, the application is allowed. Impugned order A-12 is set aside. Respondents are directed to promote the applicant to HSG-II w.e.f. 3.6.88 and HSG-I from the date on which he is entitled on par with his juniors Shri Sreedharan Nambissan and Shri Govindan Adiyodi with all consequential benefits including arrears of pay and allowances. The aforesaid directions shall be complied with in full within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 17th January 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

A-11: True copy of the Order in RA.No.1/97 in O.A.No.567/95 dated 20.1.1997 of this Hon'ble Tribunal.

A-12: A true copy of the order No.ST/3/Misc./90-94 dated 2.4.97 of the Ist respondent.