

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.504/98

Wednesday this the 7th day of February, 2001

CORAM:

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

HON'BLE SHRI T.N.T.NAYAR, MEMBER (A)

1. C.Vijayan,
Lower Selection Grade Postal Assistant,
Office of the Chief Postmaster General,
Kerala Circle,
Trivandrum-695 033.
2. P.T.Kannan,
Lower Selection Grade Postal Assistant,
Office of the Postmaster General,
Northern Region, Calicut-673 011.
3. K.Rajasekharan,
Lower Selection Grade Postal Assistant,
Office of the Chief Postmaster General,
Kerala Circle, Trivandrum-695 033.
4. T.Sulochanan,
Lower Selection Grade Postal Assistant,
Office of the Chief Postmaster General,
Kerala Circle, Trivandrum-695 033. ..Applicants

(By Advocate Shri Thomas Mathew)

vs.

1. Assistant Director(Staff)
Office of the Chief Postmaster General,
Kerala Circle, Trivandrum-695 033.
2. Director of Postal Services(SR),
Office of the Chief Postmaster General,
Kerala Circle, Trivandrum-695 033.
3. Chief Postmaster General,
Kerala Circle, Trivandrum-695 033.
4. Union of India, represented by its
Secretary, Department of Posts,
New Delhi.
5. Director(Establishment)
Office of the Director General,
Department of Posts, New Delhi... Respondents

(By Advocate Shri Thomas Mathew Nellimoottil)

The Application having been heard on 12.1.2001, the Tribunal on 7.2.2001 delivered the following:-

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicants 1 to 3 who commenced service as Lower Division Clerks with effect from 20.4.81, 15.9.80., 24.12.81 and the applicant No.4 as Sorting Assistant with effect from 25.5.82 all belonging to the Scheduled Caste Community were promoted as Upper Division Clerks with effect from 7.6.89, 5.7.85, 1.3.89 and 10.7.89 respectively. In the gradation list published by the third respondent as on 1.7.89 the position of the applicants 1 to 3 were 51, 27 and 45 respectively, while the 4th applicant's name did not come as he was promoted with effect from 10.7.89 only. The Time Bound One Promotion Scheme/Biennial Cadre Review (TBOP/BCR) was introduced in the Department of Posts by order dated 22.7.93. On implementation of the Scheme it was seen that some officials for example UDCs in the Circle and SBCOs, LSGs, PO and RMS Accountant which were senior before the implementation of the Scheme were denied the higher salary of pay admissible under the Scheme while the junior officials became eligible for higher scale by virtue of their length of service. To set right this anomaly the Department of Posts modified the scheme as per order dated 8.2.96 which provided that "all officials such as UDCs in the Circle Office and SBCO, LSG (both 1/3rd and 2/3rd) P.O and R.M.S. Accountants whose seniority was adversely affected by implementation of BCR Scheme placing their juniors in the next higher scale of pay will now be considered for next higher scale of pay from the date their immediate junior

became eligible for the next higher grade" (Annexure.A2). One Shri K.Muthuswamy though entered service with effect from 20.9.78 under the Department of Posts having been promoted as UDC only with effect from 9.12.91 ie., after the promotion of all the applicants as UDCs and thus became junior to them as UDC was promoted to the cadre of HSG (BCR) in the scale Rs.1600-2660 with effect from 2.10.95 by order dated 5.9.96 (A3). Claiming that the applicants were entitled to be placed in the Higher Selection Grade (HSG) with effect from the date on which Shri Muthuswamy was given promotion with effect from 2.10.95 the applicants submitted representations. The representations made by the applicants were rejected by the impugned orders Annexure.A5 to A8. Aggrieved by that the applicants have jointly filed this application seeking to quash Annexures.A5 to A8 and for a declaration that the applicants are entitled to be considered for the next higher scale of pay of HSG from 2.10.95 the date on which their junior Shri K.Muthuswamy was promoted to the cadre of HSG (BCR) in pursuance to the modificatory order Annexure.A2.

2. The respondents resist the claim of the applicants. They contend that the promotion of Shri Muthuswamy to the HSG Grade under the BCR Scheme was made towards a shortfall vacancy reserved for Scheduled Caste as he had completed 17 years of service as required under the relaxed standard and that as the applicants had not completed 17 years of service and as there was no further shortfall vacancy to be filled

up, the claim of the applicants for promotion to HSG grade with effect from the date on which Shri Muthuswamy was promoted is unsustainable.

3. On a careful persual of the pleadings and the materials placed on record and on hearing the learned counsel for the applicants Shri Thomas Mathew at considerable length and also the counsel for the respondents, we do not find that the applicants are entitled to the reliefs prayed for. The case of the applicants that they are in view of Annexure.A2 order entitled for promotion to HSG Grade with effect from the date on which their junior Shri Muthuswamy was promoted has no basis. The Annexure.A2 modified scheme was issued to set right the anomaly of the juniors on account of BCR Promotion getting higher pay scale. Shri Muthuswamy was given promotion to HSG Grade towards the shortfall vacancy reserved for Scheduled Caste community on his having completed 17 years of service which was the relaxed period in the case of Scheduled Castes and Scheduled Tribes. On the date on which Shri Muthuswamy was promoted none of the applicants had completed 17 years of service. Therefore Muthuswamy a member of the Scheduled Caste community who satisfied the criteria of relaxed standard was promoted against the shortfall vacancy. If all the juniors of Shri Muthuswamy is to be given promotion with effect from that date then not only the applicants but also the memebtrs of unreserved community also would have to be given similar treatment. Annexure.A2 order was issued to set right the anomaly in the case of seniors not getting higher pay as a result of introduction of the BCR Scheme

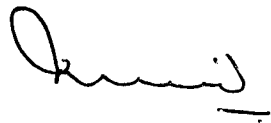


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generally. It does not cover the case of seniors whose juniors have been promoted to HSG under the relaxed standard to reserved vacancy being eligible under the relaxed standard.

4. In the light of what is stated above, finding no merit in this application, the same is dismissed leaving the parties to bear their own costs.

Dated the 7th day of February, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

s.

List of Annexures referred to in the Order:

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| 1. | Annexure A2 | True copy of Government of India Ministry of Communications, Department of Posts order No.22-5/95/PE I dated 8.2.96. |
| 2. | Annexure A3 | True copy of Memo No.ST/300/2/94 dt.5.9.1996 issued by 1st respondent. |
| 3. | Annexure A5 | True copy of Order No.ST/300/2/97 dt. 6.2.1998 issued by 1st respondent. |
| 4. | Annexure A6 | True copy of order No.ST/300/2/97 dated 6.2.98 issued by 1st respondent. |
| 5. | Annexure A7 | True copy of order No.ST/300/2/97 dated 27.2.98 issued by 1st respondent. |
| 6. | Annexure A8 | True copy of order No.ST/300/2/97 dated 6.2.98 issued by 1st respondent. |