

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.516/01

Wednesday this the 11th day of June, 2003

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

(By advocate Mr. Shafik M.A)

Versus

1. Union of India, represented by its Secretary, Department of Posts, New Delhi.
2. Director General, Department of Posts, New Delhi.
3. Chief Postmaster General, Kerala Circle, Trivandrum.
4. Assistant Director (Staff) Office of the Chief Postmaster General, Kerala Circle, Trivandrum.
5. P. Komalam, Postal Assistant, HSG II (B.C.R) PMG's Office, Central Region, Cochin.

(By advocate Mr.P.J.Philip, ACGSC)

The application having been heard on 11th June 2003, the Tribunal on the same day delivered the following:

ORDER

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

The applicant, a Postal Assistant has filed this application aggrieved by A.15 order by which her claim for placement in the HSG under BCR with effect from the date on which

her Junior P.Kamalam was given the placement was rejected. It is alleged in the application that 14 other persons who are junior and senior of the applicant but senior to Kamalam were given placement in the BCR on par with Kamalam and that the denial of the same benefit to her is arbitrary and irrational. The applicant has, therefore, challenged Annexure.A.15 order; that part of Government of India, Department of Posts letter No.25-5/95 PE dated 1.1.98 (A8) as also letter No.22-6/2000-PE I dated 17.5.2000 (A.17) which states that the past cases should not be reopened.

2. The respondents in their reply statement resist the claim of the applicant. It has been contended that in view of the ruling of the Apex Court in Prabhadevi's case, Government of India, Ministry of Communication issued letter dated 17.5.2000 in supersession of all previous instructions, that for placement in the higher scale under the TBOP and BCR seniority is not the criterion and only completion of required length of service is the condition for placement in the higher grade. It was also provided there that the cases already settled need not be reopened but pending cases would be decided according to the instructions. The case of the applicant which was not already settled but was pending decided according to the extant instructions and the impugned order therefore, cannot be faulted, contend respondents.

3. On a careful scrutiny of the materials placed on record and on hearing the learned counsel on either side, we find no injustice at all done to the applicant. The instructions issued

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by the Ministry of Finance was based on a sound principle of law explained by the Apex Court in Prabhadevi's case that seniority would not be the criteria but eligibility is the basic criteria for placement in the higher grade. The clause contained in the impugned order Annexure.A17 is fully justified because cases which had already been settled if reopened that would cause undue hardship to persons who had received the undue benefits for which they were not directly responsible. The applicant may have a heart burn that even persons who were junior to her had got the benefit because their cases had been settled already but that heart burn does not give rise to a remedy. The Government ^{not} decided that the mistakes committed would be repeated in the public interest. We do not find anything wrong with that decision.

4. In the result the application which is devoid of merit is dismissed without any order as to costs.

Dated this the 11th day of June, 2003


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(s)


A.V. HARIDASAN
VICE CHAIRMAN