

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM.

Date of decision

30th March, 1990.

Present

Hon'ble Shri. S.P.Mukerji, Vice Chairman

&

Hon'ble Shri A.V.Haridasan, Judicial Member

ORIGINAL APPLICATION NO.571/89

1. K.C. Unni.
2. N.Sundareswaran Nair
3. K.P.Vijayarama Das
4. V.S.Madhavan Nair
5. C.Shanmugham.
6. P.Asok Kumar
7. G.Sasidharan Pillai.
8. G. Sumathykutty Amma.
9. S.Vasanthakumari. .. Applicants

Vs.

1. Director of Postal Services (HQ),
Office of the Postmaster General,
Kerala Circle, Trivandrum now
redesignated as Addl.Postmaster General.
2. Postmaster General,
Kerala Circle, Trivandrum.
3. Director General of Posts,
New Delhi.
4. Union of India, represented by
its Secretary,
Ministry of Communications, New Delhi. .. Respondents

Counsel for the applicants .. M/s O.V.Radhakrishnan and
K.Radhamani Amma.

Counsel for the respondents .. Mr. TPM Ibrahim Khan, ACGSC

O R D E R
(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 17th September, 1989 filed
under Section 19 of the Administrative Tribunals Act, the nine

applicants, seven of whom have been working as Sub Postmaster,

one as Assistant Manager, Postal Stores Depot. and another as Asst.

Post Master in the Kerala Postal Circle have prayed that they should

be promoted to the Lower Selection Grade cadre with effect from

25.9.79(in case of applicants 1,4, 5, 6 & 7) and with effect from

6.9.80 (in case of applicants No.1,3,8 and 9) on the basis of their

entitlement flowing from their seniority in the revised Seniority

List of L.S.G. at Annexure A.6.

2. The brief facts of the case are as follows. In the postal

department promotion to L.S.G. is governed by Rule 272-A of the

Posts and Telegraphs Manual Vol.IV. According to this 2/3 of the

vacancies in the L.S.Gs are filled up on the basis of seniority-cum-

fitness and 1/3 are filled up on the basis of selection through a

qualifying examination. It is also laid down that any official who

is already in the panel of the previous examination would be absorbed

first in the vacancies of the next year and the balance of such

vacancies only would be filled up by the candidates who qualified

in the examination of that ^{subsequent} year. The applicants appeared in the

qualifying examination held on 10.12.78 and included in the panel

published on 8.5.79 for the vacancies of 1977-78. Sixty/ ^{six} officials were promoted out of the panel but the applicants were left out for lack of vacancies. The next examination was held on 15.2.81 for filling up the vacancies of 1979-80 but instead of accommodating the applicants and others from 1979 panel and then taking up the promotion of successful candidates of 1981 examination, the respondents combined the left over candidates of 1979 panel and the qualified candidates of 1981 panel and shuffled them on the basis of seniority. Mixing up the two panels was challenged in the High Court of Kerala which directed that those who had passed the 1979 examination should be promoted before promoting officials qualified in the 1981 examination. This order was upheld by the Supreme Court also which dismissed an SLP filed against the order of the High Court of Kerala. Accordingly the applicants who had qualified in the 1978 examination were promoted against the 1/3 quota of L.S.G. for the year 1981 on 25.2.84. All the applicants except applicants No.1 and 8 were given seniority from 1979 and applicants No. 1 and 8 were given seniority from 1980. They were all notionally promoted with effect from 24.11.81. Some panelists similarly placed like the applicants before us moved the High Court

claiming all consequential benefits flowing from their retrospective promotion. That Writ Petition was allowed by this Tribunal by judgment dated 13.2.87 in T.A. 133/85 granting all consequential benefits resulting from their retrospective promotion to the L.S.G. The Directorate, however, did not extend the benefits of this judgment to other similarly placed officials like the applicants before us. The applicants 1 to 8 before us filed O.P.No.9275/84 before the High Court of Kerala seeking promotion to L.S.G. against the 1979 vacancies with all consequential benefits. During the pendency of this petition the respondents published a revised Seniority List (Exbt.A.6) in which the applicants 2,4,5,6 and 7 were shown against the 1979 vacancies and applicants 1,3, 8 and 9 were shown against the 1980 vacancies. The Writ Petition which was transferred to the Tribunal as T.A.K.44/87 was closed on the basis of the revised Seniority List and on a submission of the counsel for the respondents that the question of pay and arrears will be considered expeditiously. However, the respondents by the order at Exbt.A.8 dated 11.9.87 gave them notional promotion to L.S.G. from 24.11.81 and arrears of pay based on such notional promotion was allowed only from the date of actual promotion to L.S.G. When this Tribunal vide their order dated 13.2.87 in T.A.133/85 (Exbt.A.9) allowed to another person similarly circumstanced all the consequential benefits of

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his promotion to L.S.G. with retrospective effect and the applicants

before us came to know it in May, 1989, they filed representations

claiming pay and arrears with retrospective effect, ^{but} without success.

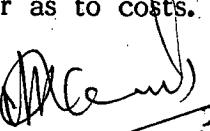
The applicants' contention is that a number of their colleagues who are junior to them were given benefits of retrospective promotion with all consequential benefits of pay and arrears by virtue of the Tribunal's order in T.A.133/85 and therefore there is no reason why they should also not be allowed the same benefit.

3. The respondents while accepting the factual position have feebly argued that the application before us is hopelessly time barred and the benefit of the judgments to which the applicants virtually were not a party cannot be extended to them. They have conceded the applicants' case by stating that the applicants 2,4,5,6 and 7 were given seniority from 1979 and applicants 1,3,8 and 9 were given seniority from 1980.

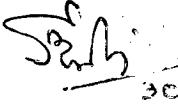
4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. In view of the consistant stand taken by the High Court of Kerala and this Tribunal that the panelists of 1978 examination being senior to the panelists of 1981 examination should be accommodated with ^{first}

all consequential benefits, we see no reason why the applicants before us should be denied similar benefits. Such benefits were extended latest by the order of this Tribunal dated 15.1.1990 in O.A.K.476/88 and another order dated 1.2.90 to which one of us (Shri S.P.Mukerji,Vice Chairman) was a party in O.A. 333/89.

5. In the facts and circumstances explained above, we allow this application and direct the respondents that the applicants No.2,4,5,6 and 7 who have ^{already} been given 1979 seniority should be promoted to the L.S.G. with effect from 25.9.79, and applicants No.1,3,8 and 9 who have already been given 1980 seniority should be promoted to the L.S.G. with effect from 6.9.80 with all consequential benefits of pay, increments and arrears. Action on the above lines should be completed within a period of three months from the date of communication of this order. There will be no order as to costs.


30/3/90
(A.V. HARIDASAN)

JUDICIAL MEMBER


30/3/90
(S.P. MUKERJI)

VICE CHAIRMAN

30.3.90

Ksn.