

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. NO. 357/93

Thursday, this the 20th day of January, 1994

SHRI N. DHARMADAN, MEMBER (J)  
SHRI S.KASIPANDIAN, MEMBER(A)

1. K.Mohamed Basheer,  
L.S.G. Sorting Assistant,  
Head Record Office,  
Trivandrum-1.
2. R.Janardhanan,  
H.S.G.Sorting Assistant, -do- .. Applicants

By Advocate Shri Thomas Mathew

V/s

1. Asst. Post Master General (Staff),  
O/o Chief Post Master General,  
Trivandrum.
2. Chief Post Master General,  
Kerala Circle,  
Trivandrum-33.
3. Director General,  
Dept. of Posts, New Delhi.
4. D.P.S. (HQS),  
O/O Chief P.M.G., Trivandrum.
5. SSRM, RMS, Tvm. Division,  
Trivandrum-1.
6. Union of India, rep. by its  
Secretary, Dept. of Posts,  
New Delhi. .. Respondents

By Advocate Shri C.N.Radhakrishnan, ACGSC.

ORDER

N.DHARMADAN

Two Sorting Assistants working in the Sub-Record Office, Trivandrum are aggrieved by the denial of retrospective promotion to the cadre of LSG, based on the promotion of their junior, Shri C. Radhakrishnan and filed this O.A. with the following prayers:-

- "(a) To direct the respondents to give the applicants retrospective promotion with effect from 18.11.81 the date on which their junior/juniors has/have been promoted, with all consequential benefits of pay and allowances, increments and arrears and to quash the impugned order, Annexure-A9.
- (b) To grant such other reliefs which this Hon'ble Tribunal deem fit, proper and just in the circumstances of this case.
- (c) To allow the applicants to realise the costs of this proceedings from the respondents.

2. The facts are not in dispute. Applicants have passed the departmental examination held in the year 1978, for promotion and appointment to the cadre of LSG, in the vacancies of 1977-78. They were included in the panel, Annexure-A1, with serial Nos. 23 and 20 respectively. But, before exhausting the list, the Department conducted another examination in 1981 and a combined list of successful candidates passed in 1978 and 1981 was prepared for effecting promotions depending upon the vacancy position. When the applicants who passed in 1978 examination requested for appointment as LSG considering their seniority and earlier pass, they received Annexure-A9 impugned order. The order reads as follows:-

" The direction of CAT given in respect of Postal officials cannot be made applicable to RMS Staff. The official may please be informed accordingly. Generally such directions are extended only to those impleaded in the case."

3. According to the applicants, their case is covered by the judgment of this Tribunal in O.A. 517/89 (Annexure-A6). The applicants also raised a further contention that they are entitled to count seniority from the date of promotion of one Shri C.Radhakrishnan, who passed in the 1981 examination but was given promotion to the LSG cadre within 1/3 quota w.e.f. 7.11.81. The applicants were promoted and posted as LSG in the vacancies for 1981 and 1982 w.e.f. 30.11.83, as per Annexure-A3 proceedings dated 21.1.85. A number of other juniors were

also promoted. The details of the same are given in para 3 of the O.A. They are extracted below:-

"3. The applicants are entitled to get retrospective promotion at least with effect from 18.11.81, the date on which the under mentioned juniors who have passed 1981 examination have been appointed to the cadre of LSG with effect from the date noted against their names:

Sl.No. in the Gradation list	Sl. No.	Name	Date of appointment in LSG Cadre	
64	1	P.V.Gopalan	1/3 81	18.11.81
65	2	K.V.Krishnan	..	21.11.81
66	3	PS Gopalakrishnan	..	19.11.81
87	4	C.Radhakrishnan	..	23.11.81
72	5	P.E.Ramachandran	2/3 1982	24.12.82


4. According to the applicants, there is no legal justification in overlooking the claim of the applicants for earlier promotion particularly when they have passed the examination held in the year 1978 and were waiting for promotion to the 1/3rd quota. No explanation worth consideration has been given by the respondents in the reply for the denial of earlier promotion to the applicants.

5. The impugned order only indicates that RMS staff are being separately dealt with in the matter of promotion to the LSG cadre. But no such plea was taken in the reply. the averments in ground 6 & 7 of the O.A. clarify that both members of RMS and Postal staff are in one single department and they are treated uniformly even though the Department is maintaining two separate seniority lists. According to them, in every respect, the members in the two wings are treated alike and no difference is being maintained in the matter of promotion. Since the averments in paras 6 & 7 are not denied by the respondents, we accept

the contention of the applicants that the employees of the RMS Division are entitled to similar treatment in the light of the judgment in OA 571/89. The appointing authority so far as the applicants and the applicants in OA 571/89 are the same. Admittedly, number of juniors of the applicants including Shri C.Radhakrishnan, serial No.89 in the seniority list, were promoted as officiating LSG earlier. Under these circumstances, the applicants are entitled to promotion retrospectively from the date of their juniors because of their seniority and earlier pass in the departmental test.

6. Having regard to the facts and circumstances of this case, we declare that the applicants are entitled to be promoted to the cader of LSG within the 1/3rd quota considering their pass in the examination in 1978 w.e.f. the date of promotion of Shri C.Radhakrishnan, namely 23.11.81. It goes without saying that respondents shall implement the aforesaid direction after giving notice to the affected parties, <sup>if any,</sup> <sub>2</sub> with all consequential benefits including arrears to the applicants within a period of four months from the date of receipt of a copy of this judgment.

7. Accordingly, we quash Annexure-A9 and allow the original application. There will be no order as to costs.



( S.KASIPANDIAN )  
MEMBER(A)



( N.DHARMADAN )  
MEMBER(J)

v/-