

(PS)

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

Registration O.A. No. 346 of 1989

Harish Chandra ... ... ... Applicant.

Versus

Union of India and others ... ... Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, VC)

The applicant and Shri D.N. Tewari, respondent no. 4 came to Gonda Division under Rule 38 of the P & T Manual Volume IV from different Units. The applicant came in January 1977 and the respondent no. 4 in June, 1977. In the gradation list of 1978, the name of the applicant was at Serial No. 35 against the 49 posts of temporary clerks while the name of respondent no. 4 was shown at Serial No. 10 of 17 temporary clerks on deputation vacancies. The applicant appeared in the examination of 1978 held for the vacancies of 1977-78 for promotion to the higher grade and he was declared successful by the D.G. P & T vide his letter dated 12th May, 1979. The applicant was required to submit his willingness if he was willing to work in L.S.G. cadre on promotion on circle basis and ready to accept transfer in U.P. Circle and in response thereto, the applicant furnished his willingness in the prescribed proforma on 22.3.1980. The respondent nos. 4, 5 & 6 also appeared against 1/3rd quota of vacancies for 1979-80 and they were declared successful vide P.M.G. U.P. Circle Lucknow Memo Dt. 15.10.1981 as communicated by the S.P.Os. Gonda in his Memo dt. 21.10.1981. These three persons were also not appointed because of the non-availability of the

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vacancies. According to the applicant, in view of the Rule, 32 E (a) (ii) of P & T Manual Vol. IV lays down,

" If the promotion is qualifying seniority should be fixed according to position of the official on the waiting list." In view of this, the applicant who passed the examination for promotion to L.S.G. in May, 1979 is entitled to be senior to the respondent Nos. 4 to 6 who passed the examination in October, 1981. The applicant having passed the examination of 1978 and having been brought on the approved list much earlier than Sri D.N. Tewari, K.D. Tewari and P.N. Tiwari is senior to them as they passed the examination subsequently in 1981 and their names were brought on the approved list much after the applicant. The applicant submitted representation dated 19.8.1986 followed by reminders dated 10.3.1987 and 20.4.1987 to the S.P.Os., Gonda for showing his name in the gradation list of post office staff in L.S.G. cadre at a proper place to the senior to Shri D.N. Tewari but the S.P.Os. Gonda did not consider the said representation of the applicant objectively and replied by his letter dt. 28.4.1987 that the representation had been sent to the circle office by his letter dt. 20.11.1986, that the seniority at the divisional level was fixed on the basis of circle gradation list and no change was possible unless the circle office issued any such instruction. The applicant, thereafter preferred a representation dated 18.8.1987 to the Postmaster General, U.P. Circle, Lucknow through proper channel for correction in the circle as well as in the Divisional Gradation list and showing the applicant senior to respondent Nos. 4, 5 & 6 who passed the L.S.G. examination much after the applicant and were

brought on the approved list subsequent after about 2 years.

2. The respondents have stated in their counter affidavit that the applicant passed the qualifying examination held on 10.12.1979 for promotion to L.S.G. cadre 1/3 quota but he could not be absorbed in the said cadre for want of vacancy. Thereafter, 1/3rd L.S.G. quota examination was declared competitive examination instead of qualifying examination. It was also decided that qualified but unabsorbed candidates of earlier examinations held in 1978, 1976 and February, 1981 will be no more in the list. For their promotion to L.S.G. cadre either they have to wait for their turn on the basis of seniority-cum-fitness against 2/3rd quota vacancies or they have to appear in the competitive examination again; qualified candidates will, however, not be restrained from appearing in the competitive examination. Accordingly, all the qualified but unabsorbed candidates were arranged according to their Circle seniority irrespective of the year in which they had passed the qualifying test. The respondents again stated that the representation of the applicant in respect of Seniority list dt. 31.12.1985 issued by the Post Master General, Lucknow was forwarded to the P.M.G. Lucknow and the same was rejected by him.

3. Accordingly, we order that the applicant will not suffer the mistake which was committed by the administration regarding his promotion and fixation of seniority and this application is allowed and the order dated 27.10.1989 as communicated by S.P.Os. Gondakvide his letter dated 30.10.1989 is acquashed and the respondent

Nos. 1 to 3 ~~are~~ directed to give the applicant his due seniority on the basis of his passing the examination for promotion to I.S.G. cadre in 1979 over the respondent Nos. 4 to 6 who passed the examination in 1981 with all consequential benefits. Let it be done within 2 months from the date of receipt of the copy of this judgment. The application is disposed of with the above terms. Parties to bear their own costs.

*J. M. Singh*  
Member (A)

*J. M. Singh*  
Vice-Chairman

Dated: 9.12.1991  
(n.u.)