

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW**

ORIGINAL APPLICATION NO: 315/2006

This the 29th day of October, 2012

**HON'BLE MR. JUSTICE ALOK KUMAR SINGH, MEMBER (J)
HON'BLE MR. S. P. SINGH, MEMBER (A)**

Kedar Nath Singh aged about 59 years S/o Sri Ram Pal Singh R/o Village & P.O. Maraidiha (Amaniganj) Faizabad at present working as SPM Rudauli (Barabanki).

Applicant

By Advocate Sri R. S. Gupta.

Versus

1. Union of India through the Secretary Cum Director General Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P., Lucknow.
3. Superintendent of Post Offices, Barabanki
4. R. K. Singh, S.P.M Haidergarh, Barabanki.
5. Surendra Singh, S.P. M. Tehsil Fatehpur, Barabanki.

Respondents

By Advocate Sri Vishal Chaudhary

(Reserved on 17.10.2012)

ORDER

By Hon'ble Mr. S. P. Singh, Member (A)

The applicant has instituted this O.A. to seek quashing of the seniority list circulated vide letter dated 5.5.2005 as contained in Annexure-1 in respect of officials junior to the applicant especially opposite party No. 4 and 5 and accordingly, to fix his seniority over and above, opposite party No. 4 and 5 Sri R. K. Singh, and Sri Surendra Singh etc and allow all consequential benefits including seniority promotion pay and all other consequential benefits respectively.

2. The applicant joined the P&T Department as PA Clerk now PA on 15.8.1966. He was given TBOP (time bound one

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promotion) w.e.f. 30.11.1983 and later BCR (Biennial Cadre Review) promotion w.e.f. 1.1.1993. According to the applicant, he was promoted as regular LSG. In support thereof, he has annexed a document as Annexure A-2 which is nothing, but seniority list of officials in BCR cadre in Barabanki Division based on seniority position. At Annexure-3, the applicant has annexed the transfer and posting orders which were issued vide letter dated 27.5.1994. According to him, this transfer posting order was issued in consideration of his regular promotion to LSG as he was posted as SPM, Haidergarh. He has also attached charge report dated 11.6.1994 in token of joining as SPM, Haidergarh (Annexure-4). The applicant states that Sri R. K. Singh, the opposite party No. 4 joined as PA Clerk on 23.4.1968 and Sri Surendra Singh the opposite party No. 5 joined as PA Clerk on 27.4.1973 much later to the applicant who joined as PA Clerk on 15.8.1966. He has annexed Gradation List (Annexure-5) at page 30 of the O.A., but the heading of the document attached as Annexure-5 does not use the word seniority list. It is only a Gradation list of Class III officials in Barabanki Division only up to 1.7.93. The applicant received copy of Annexure-1 some time in May 2005. Annexure-1 is Circle Gradation List of LSG (Norm based) officials in UP Circle. This Gradation List was required to be circulated amongst the officials concerned and certificate to this effect was required to be submitted to the office of Chief Post Master General, UP Circle Lucknow within 10 days along with representation, if any, with comment through the Regional Post Master General concerned. The applicant allegedly came to know about the circular of the seniority list and submitted his representation dated 30.9.2005 (Annexure-A-6) and also

claims to have sent a reminder on 24.12.2005 (Annexure-7).

When he failed to get any response, he sent another letter dated 12.1.2006 (Annexure A-8). According to him, he has not received any communication so far on this subject, and therefore, he has filed this O.A. on 18.7.2006.

3. The respondents have clearly denied that the applicant was ever awarded with promotion of LSG. However, they admit that the applicant was awarded with TBOP w.e.f. 30.11.1983 and BCR w.e.f. 1.1.1993. The respondents further state that TBOP and BCR schemes are only time bound financial upgradation and therefore, the applicant is nothing, but a PA (BCR). Since the applicant was never awarded with promotion of LSG, the LSG officials including private respondent Nos. 4 and 5, who have been promoted as regular LSG (Norm based) would rank senior to TBOP and BCR officials like the applicant. His posting as SPM Haidergarh, is due to non availability of norm based LSG official. The applicant is only PA (BCR) and he was never approved for promotion to regular LSG norm based Cadre. The respondents clearly state that Sri R. K. Singh, opposite party 4 and Sri Surendra Singh, opposite No. 5 were awarded with regular LSG promotion w.e.f 30.11.2004, although copy which is stated to have been annexed at Para No. R-1 is not on record. The respondents further plead that both the officials were most senior officials in the Barabanki Division at that time while Sri K. N. Singh, the applicant was working in Faizabad Division and he was not considered for LSG cadre. The respondents deny the averment made by the applicant regarding sending of his repeated representations (Annexures A6 to A-8). They allege that it is only an afterthought of the applicant as the applicant knew fully well that most senior officials of

Barabanki Division were Sri R. K. Singh opposite No. 4 and Sri Surendra Singh opposite party No. 5 as they were awarded with regular LSG w.e.f 30.11.2004. In this context, the respondents plead that the grounds raised by the applicant in this O.A. are wholly misconceived and misleading and therefore, untenable and without any legal force. The O.A. is thus devoid of any merit and deserves to be dismissed.

4. Rejoinder Affidavit was filed by the applicant on 24.7.2008 mostly reiterating the contents of the O.A.

5. We have heard the counsel for the parties and gone through the file and the relevant documents on record.

6. The learned counsel for the applicant made his submissions regarding the Gradation List of LSG (norm based cadre) officials in UP circle as on 1.7.2004 (Annexure-1). The name of the applicant appears at serial No. 175. The column No. 7 of the Gradation List of LSG (norm based) officials in UP Circle as on 1.7.2004 reflects the date from which an official is working in LSG norm based cadre (already approved LSG official in 1/3rd or 2/3rd quota from Co. LW). This column in respect of the applicant is blank. Column No. 8 of Annexure-1 shows the date from which applicant was approved in LSG norm based cadre (as only (notionally promoted official) appears to be 1.10.1995. This only shows that the applicant was given only notional promotion as LSG while respondents R-4 and R-5 who are at serial No. 479 and serial No. 483 were given notional promotions as well as regular promotion w.e.f. 30.11.2004 while the applicant was not given regular promotion as column 7 in his respect is blank. It is further clearly indicated in Annexure No. 1 that the other BCR/TBOP officials like the applicant who have been notionally promoted to LSG norm based post in which

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vacancy is caused due to retirement/death/promotion to HSG-I are to be arranged according to their notional promotion below the LSG 1/3rd quota and 2/3rd quota officials. Such notional promotion to LSG norm based as in case of the applicant being the senior most BCR/TBOP eligible officials are to be given on basis of seniority-cum-fitness by convening DPC by the single person (Chairman) i.e. Divisional Head. At this stage, the learned counsel for the applicant was asked to show document if any giving him regular promotion to LSG norm based promotion either under 1/3rd or 2/3rd quota. He was also asked by this Tribunal the reasons as to why in the case of the applicant column No. 7 was kept blank by the department in Annexure-1, he could not make any convincing reply. On the other hand, the learned counsel for the official respondents reiterated that the applicant was never awarded any regular LSG promotion, he is only PA BCR. By bifurcation of Tehsil w.e.f. 1.9.2001, the applicant opted to work in Faizabad. Division and he continued to work in Faizabad from 1.9.2001 to 30.9.2004. Sri R. K. Singh and Sri Surendra Singh (Opposite Party No. 4 and 5 respectively) were awarded with regular LSG promotion w.e.f. 30.11.2004.

7. From the above it is clear that the applicant who was given TBOP w.e.f. 30.11.83 and BCR w.e.f. 1.1.1993 which is only time bound financial upgradation given to the applicant. It does not entitle him automatically to get the promotion to LSG norm based and therefore LSG officials, who were given promotion in LSG norm based, stand senior to the applicant who is just a TBOP and BCR official and has only been given norm based promotion only notionally. The applicant was never promoted as regular for LSG and

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therefore, we do not find any legal infirmity in the circular letter (Annexure-1) issued by the department. O.A. is devoid of merit and is liable to be dismissed.

8. The O.A. is accordingly dismissed. No order to costs.

S P Singh
29.10.12

(S. P. Singh)
Member (A)

Alok Kumar Singh
(Justice Alok Kumar Singh) 29.10.12
Member (J)

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