

**Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 4/2008**

Reserved on 24.3.2014

Pronounced on 31st March, 2014

**Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms.Jayati Chandra,Member (A)**

Nand Lal Kushwaha aged about 61 years son of late Sri Ram Badan Kushwaha, permanent resident of village and Post Office Kanta, District- Chandauli (presently residing at House No. 110, Chhoti Jagauli, Kursi Road, Lucknow) [lastly working as Officer on Special duty in the office of the Postmaster General, Gorakhpur Region, Gorakhpur.]

Applicant
By Advocate: Sri Prashant Kumar Singh

Versus

1. Union of India ,through the Secretary, Ministry of Communication, Department of Posts, New Delhi.
2. Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, New Delhi.
3. Chief Post Master General, U.P. Circle, Lucknow.

Respondents
By Advocate: Sri Rajendra Singh

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

- a) issuing/passing of an order or direction to the respondents to promote the applicant in P.S. Group 'B' w.e.f. 29.11.1995 and in P.S. Group 'A' w.e.f. 18.8.2003 when persons junior to the applicant were promoted , with all consequential benefits, including arrears of salary and revision of pensionary benefits.
- b) issuing/ passing of any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.
- c) allowing this Original Application with cost.

2. The brief facts of the case are that the applicant after appearing in the IPO examination was placed at 4th position in the merit list as such he belongs to 1974 batch of Inspector of Post offices. Since, 1974, the applicant continued to work and subsequently, in 1987, few



officials junior to the applicant were promoted to the ASP cadre but the applicant was left and got actual promotion in 1989. He subsequently came to know about the delay in his promotion and submitted a representation to the competent authority in 1991. Thereafter, in 1995, the applicant was issued a charge sheet and as such juniors to the applicant were promoted in P.S. Group 'B' on adhoc basis. Subsequently, the applicant was exonerated and thereafter, the applicant was promoted to the P.S. Group 'B' in 1998 and he has also preferred O.A. No. 1443 of 1998 before the Allahabad Bench of this Tribunal. While deciding the O.A., the Tribunal issued a direction upon the respondents to convene a review DPC to consider the applicant for promotion to Group 'B' along with his juniors in 1995 and it is also observed that if he is found fit, he should be given promotion w.e.f. the date his juniors were promoted. The order of the Tribunal was challenged before the Hon'ble High Court and in the writ petition, the Hon'ble High Court directed to open the sealed cover containing the recommendations of the Departmental Promotion Committee held in October, 1995 and also observed that if the committee has recommended for his promotion then to promote him from the date his juniors have been given promotion and give him all consequential benefits. During this period, the applicant superannuated, after attaining the age of superannuation. In terms of the order of the Hon'ble High Court, the respondents opened the sealed cover and passed an order on 21.12.2006 and as per the said order, it was categorically pointed out by the respondents that the applicant may be promoted to the post of P.S. Group 'B' notionally w.e.f. 29.11.1995 and also be given all consequential benefits admissible to him under the law. After the said orders were passed, the applicant preferred a representation for promotion to Group 'B' w.e.f. 19.11.1995 and Group 'A' from 18.8.2003 when juniors were promoted. But when nothing was heard, he preferred the present O.A.

3. Learned counsel appearing on behalf of the respondents filed their reply and through reply, the respondents denied the averments made in the O.A. and has also pointed out that applicant and one Sri I.S. Abodh, both were promoted to ASPOs cadre on regular basis on 16.12.1988 and in view of availability of vacancies in PS Group B cadre, some officers junior to the applicant were promoted on adhoc basis w.e.f. 8.6.1995 as the applicant was under suspension upto 21.7.1995, as such he was not given promotion on adhoc basis. The learned counsel for the respondents has also pointed out that the respondents issued orders for giving him notional promotion to P.S. Group 'B' cadre w.e.f. 29.11.1995 with all consequential benefits, the date from which immediate juniours namely Rohidas was promoted in P.S. Group B cadre. It is also indicated that later on the said order was modified on 1.2.996 on the application of the retired officer.

4. Learned counsel for applicant has filed rejoinder reply and through rejoinder reply, mostly the averments made in the O.A. are reiterated.

5. Learned counsel for respondents has also filed Supple. Affidavit and through Supplementary Affidavit, the averments made in the C.A. are reiterated and no new facts were placed on record.

6. Heard the learned counsel for the parties and perused the record.

7. Admittedly the applicant was working in the respondents organizaiton and after attaining the age of superannuation, superannuated on 31.5.2006. The applicant was served with a charge sheet and he has also filed O.A. No. 1443/98 before the Allahabad Bench of this Tribunal and while deciding the O.A., the Tribunal issued a direction to convene a meeting of review DPC to consider the applicant for promotion in Group 'B' along with his juniors in 1995 and if he is found fit, he should be given promotion w.e.f. the date his juniors were promoted. The orders were passed by the Tribunal dated

18.8.2000 was subsequently challenged before the Hon'ble High Court and the Hon'ble High Court further modified the orders and directed to open the sealed cover containing the recommendations of the Departmental Promotion Committee held in October, 1995 and also observed that if the Committee has recommended for his promotion, then the applicant be promoted from the date his juniors have been promoted and also directed for giving him all consequential benefits. In pursuance thereof, the respondents have issued an order on 21.12.2006 wherein it is categorically pointed out by the respondents that the applicant may be promoted to the post of P.S. Group 'B'; notionally w.e.f. 29.11.1995 and may be given all consequential benefits admissible to him under the law. It is submitted by the learned counsel for the applicant that despite that, the respondents have not passed any orders giving the benefit to the applicant notionally to the post of PS. Group 'B' w.e.f. 29.11.1995 as prayed by the applicant in the present O.A. and also not granted any benefit of P.S. Group 'A' w.e.f. 18.8.2003 as prayed for. Since the respondents have already passed an order dated 21.12.2006 in terms of the order of the Hon'ble High Court as such it is expected that the respondents will pass an order giving the notional promotion to the applicant to P.S. Group 'B' cadre w.e.f. 29.11.1995 with all consequential benefits admissible to him under the law. The same is expected to be done within a period of 3 months from the date, the certified copy of order is produced to him and the decision so taken be communicated to the applicant.

8. With the above observations, O.A. is disposed of. No order as to costs.

J. Chandra
(JAYATI CHANDRA)
MEMBER (A)

HLS/-

Navneet Kumar
(NAVNEET KUMAR)
MEMBER (J)