

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**Reserved on 10.09.2015.**

**Pronounced on 21.09.2015.**

**Original Application No.226/2011**

**Hon'ble Mr. Navneet Kumar, Member (J)**

**Hon'ble Ms. Jayati Chandra, Member (A)**

Ram Manorath Tewari aged about 68 years S/o Late Sri R.S. Tewari R/o Village Chakaripurwa, Mauza Madhgan, Post Dhanepur District Gonda.

**-Applicant.**

**By Advocate: Sri Amit Verma holding brief for Sri A. Moin.**

**Versus.**

1. Union of India through the Secretary, Ministry of Post, Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Gonda Division, Gonda.

**-Respondents.**

**By Advocate: Sri S.B. Singh.**

**ORDER**

**By Ms. Jayati Chandra, Member (A)**

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking the following relief(s):-

(a). *To direct the respondents to grant second promotion in the pay scale of Rs.5000-8000/- under the BCR Scheme to the applicant w.e.f. 1.1.1997 with all consequential benefits including arrears of pay.,*

(b). *To direct the respondents to pay the cost of this application.*

*Chandra*

*(c). Any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case be also passed."*

2. The facts of the case which are averred by the applicant are that the applicant was initially appointed on 01.01.1971. As per the B.C.R. Scheme the applicant was given the benefit of L.S.G. after completion of 16 year of service in the year 1987. He became entitled for grant of IInd Financial upgradation under BCR Scheme w.e.f. 01.01.1997 after completion of 26 years of service.

3. The applicant was awarded a punishment of recovery initially but subsequently, the punishment was enhanced to that of reduction by 3 stages in the pay scale for a period of 3 months alongwith recovery. Being aggrieved, the applicant preferred O.A.No.197/2003 in re Ram Monorath Tewari Vs. Union of India & Others, which was disposed of by this Tribunal vide order dated 04.01.2007, quashing the impugned punishment orders with all consequential benefits. Subsequently, the applicant prayed for grant of second promotion as per BCR Scheme vide representation dated 12.12.2007. It is pertinent to mention here that the representation was made by him after his retirement. The respondents have by their order dated 11.01.2010 (Anexure-4) granted his second financial upgradation under BCR Scheme w.e.f. 01.01.1999.

4. The respondents have contested the claim of the applicant by filing their counter affidavit admitting therein that the applicant was due for IInd Financial Upgradation under BCR Scheme w.e.f. 01.07.1997. However, he had been awarded punishment of "Censure"

T. Manda

on 06.05.1994, Punishment of withholding one increment for a period of six months without cumulative effect was awarded by SPOs Gonda vide Memo dated 31.08.1994, Punishment of recovery of Rs.15,000/- from the pay of the applicant was awarded vide SPOs Memo dated 30.09.1996 and Punishment of stoppage of one increment for one year was awarded vice SPOs, Gonda Memo dated 23.06.2000. His case for Financial Upgradation under BCR Scheme w.e.f. 01.07.1997 was considered by the DPC, but the applicant was not found fit for IInd Financial Upgradation w.e.f. 01.07.1997 due to unsatisfactory service record. This decision was send to the applicant for his information vide CPMG Memo dated 21.12.1998 (Annexure CR-1). The case of the applicant for IInd Financial Upgradation was again considered by the DPC and the same was allowed w.e.f. 01.01.1999 vide order dated 16.08.2000. The same was not implemented as the punishment of stoppage of increment was pending against the applicant which was awarded to him vide SPOs, Gonda Memo dated 23.06.2000. Therefore, due to currency of punishment, the applicant was not allowed the IInd Financial upgradation as approved vide CPMG Memo dated 16.08.2000. Thereafter, the applicant filed an appeal dated 04.08.2000 against the said punishment order date 23.06.2000. The Appellate Authority decided the appeal on 02.03.2001 and order for de-novo proceedings from the stage of issue of fresh charge-sheet. Accordingly, the applicant was again served the Memo of charges vide SPOs, Gonda Memo dated 19.03.2002 and he was awarded penalty as detailed above. The decision taken by the Memo dated 26.03.2003 i.e. selection of his BCR was finally implemented vide Memo dated 18.12.2009.

*J. Chandra.*

5. The applicant has filed Rejoinder Affidavit to the Counter Affidavit filed by the respondents more or less reiterating his contentions as raised in the OA.

6. During the course of hearing the applicant have stated that the applicants' case cannot be rejected for promotion on the basis of minor punishment as held by this bench of the Tribunal in **O.A.No.576 of 2001, Puttilal Gupta and others vs. U.O.I. & Others ATJ 2005 (2) page-228** which has attained finality.

7. The learned counsel for the respondents placed reliance on the decision of **Hon'ble Supreme Court in the case of Amrik Singh vs. Union of India & Others reported in JT 2001 (2) SC-568** whereby the Hon'ble Supreme Court had refused to interfere with the decision of the refusal for grant of promotion on the basis of even one adverse remark in the performance-period which was the basis for such promotion.

8. We have heard the learned counsel for both the parties and perused the material available on record.

9. The applicant has only prayed for grant of IInd Financial Upgradation w.e.f. 01.01.1997. The respondents have granted that same to him w.e.f. 01.01.1999. The respondents had held that the applicant was due for IInd Financial Upgradation w.e.f. 01.07.1997 and the same was considered and disallowed vide O.M. dated 21.12.1998. The relevant para-5 of the aforesaid order reads as follows:-

T. Chandra

*"The officials mentioned in Annexure 'B' have not been found fit for promotion to the scale of Rs.5000-8000/- due to unsatisfactory work and conduct."*

*Annexure -'B'*

*"LIST OF OFFICIALS OF PA CADRE OF GORAKHPUR REGION WHO HAVE NOT BEEN FOUND FIT FOR PROMOTION IN PAY SCALE OF Rs.5000-8000/- AS A RESULT OF BIENNIAL CADRE REVIEW (ON COMPLETION OF 26 YEARS OR MORE SERVICE) DUE TO UNSATISFACTORY RECORDS.*

<i>S.No.</i>	<i>Name of the official</i>	<i>Name of Division</i>
1.	<i>Sri Ram Manorath Tewari</i>	<i>Gonda Dn.</i>
2.	<i>" V.B. Singh Rathore</i>	<i>Gonda Dn.</i>

This order was duly endorsed to the applicant and copy of it sent by Regd. Post.

**10.** This order was never been challenged by the applicant either before the competent authority or means of an O.A. Moreover, this decision having been taken in 1998 could have only been taken on the basis of conduct of the applicant as was available upto 1998 and from the details made available by the respondents only punishment of (i) "Censure" awarded on 06.05.1994. (ii). withholding one increment for a period of six months without cumulative effect awarded by SPOs Gonda vide Memo dated 31.08.1994. (iii). Punishment of recovery of Rs.15,000/- from the pay of the applicant awarded vide SPOs Memo dated 30.09.1996 were having currency before the decision dated 21.12.1998. Be it as it may as the decision not to grant the financial upgradation w.e.f. 01.07.1997 was taken in 1998, and as the decision has not been challenged in time, it has become final. The

*J. Chaudhe*

punishment of recovery of Rs.15,000/- and other subsequent decision of the respondents, resulted in non-implementation of the IInd Financial Upgradation approved w.e.f. 01.01.1999 (as sanctioned vide CPMG, U.P. Circle, Lucknow memo dated 16.08.2000-copy not provided) till the same was implemented vide order dated 11.01.2010. We are declining to go into the merit of withholding the implementation of a sanction order made in the year 2000 for 10 years, and believe and trust that the applicant has been paid all arrears and has also been given the benefit of his pension revision subsequent to such pay upgradation. We are unable to adjudicate on the legality of the order dated 11.01.2010 that the "चीफ पोस्टमास्टर जनरल लखनऊ के ज्ञापन सं० स्टाफ/181-एक्स ए/वी. सी.आर/93/6 दि० 16.08.2000 एवं क्षे०का० के पत्रांक आरपीजी/स्टाफ/एक्स ए-47/3/जीडीए/1/चै.2 दि० 18.12.09 में निहित निर्देशों के अनुपालन में श्री राम मनोरथ तिवारी से०नि० उ०पो०मा० श्रीनगर को बी०सी०आर के अन्तर्गत द्वितीय फाइनेंसियल अपग्रेडेशन वेतनमान 5000-8000 में दि० 01.01.09 से दिये जाने का आदेश दिया जाता है।". In the absence of any specific challenge to the order dated 18.12.2009 as letter dated 11.01.2010 is only a continuation to implement the decision taken vide order dated 16.08.2000.

**11.** In view of the discussions made above, the OA is deserves to be dismissed and is accordingly dismissed. No order as to costs.

*J. Chandra*  
**(Ms. Jayati Chandra)**  
**Member (A)**

*Navneet Kumar*  
**(Navneet Kumar)**  
**Member (J)**

Amit/-