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**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

**Original Application No. 357 of 2009
This, the 13th October, 2014**

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Ramesh Chandra Sharma
aged about 67 years
son of Sri Pratap Chand Sharma
retired SPM (LSG) (BCR) Lakhimpur Kheri
R/o 199 Arjunpurwa
Lakhimpur Kheri.

Applicant

**By Advocate Sri R. S. Gupta.
Versus**

1. Union of India
Through the Secretary Department of Post cum D. G. Post
Dak Bhawan
New Delhi-110001.
2. Chief Postmaster General
U.P. Lucknow.
3. Postmaster General, Breilly.
4. S.P.Os. Kheri.

By Advocate Sri K. K. Shukla.

ORDER (ORAL)

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

The present Original application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (a) That this Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 14.1.2009 as contained in Annexure No. 1 directing respondents to equal his pay in all cadres i.e. LSG, HSG II and HSG I after giving due promotions with effect from the date Sri K.S. Pandey junior to him was given promotion ensuring restoration of rights of the applicant under Article 14 and
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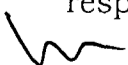
16 of Constitution of India along with pay and all consequential service benefits and retiral dues with interest @ 18 %.

(b) To allow O.A. with costs.

2. The brief facts of the case are that the applicant was appointed in the respondents organization as a Clerk and after attaining the age of superannuation, superannuated on 31.7.2001. The applicant claims for his promotion to the higher grade and when the same was not granted, he submitted a representation to the authorities and the authorities rejected the same by means of the impugned order dated 14.1.2009 through which, it is indicated that the applicant is not entitled under the LSG Cadre.

3. The learned counsel for the applicant has also categorically pointed out that the impugned order dated 14.1.2009 is passed by the authority which is absolutely a non speaking order and also placed reliance of the judgment of the Hon'ble Apex Court in the case of **Roop Singh Nagi Vs. Punjab National Bank reported in (2009) 1 SCC (L&S) 398**, and indicated that an order passed which is a civil consequences must be passed by recording reasons. It is also indicated that no such reason is indicated in the impugned order as such, it requires interference by the Tribunal and also requires reconsiderations by the respondents.

4. On behalf of the respondents, the reply is filed and through reply, it is indicated that the applicant superannuated from service on 31.7.2001 and since he was declared successful in LSG one third quota exam June 1979, he was approved for absorption in LSG cader vide order dated 12.2.1982. Since the applicant was officiating in Divisional Office on the post of Office Supervisor which is higher post in comparison to LSG and the applicant for the first time claiming for fixation of pay in 2002 and accordingly, he was suitable replied by the respondents.



5. On behalf of the applicant, rejoinder is filed and through rejoinder, mostly, the averments made in the O.A. are reiterated and the contents of the counter reply are denied.

6. On behalf of the respondents, supplementary counter reply is filed and through supplementary counter reply, the contents of the rejoinder are denied and the contents of the counter reply are reiterated.

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

8. The applicant joined the respondents organization as a clerk and superannuated after attaining the age of superannuation on 31.7.2001. The applicant appeared in the examination on 10.12.1978 and was declared successful for his promotion to the post of higher grade. The applicant claims that one kamla Shankar Pandey was working in the Allahabad Division who passed the same examination also given promotion in the higher grade but subsequent to the examination passed by the applicant and, the applicant was not granted promotion to the higher grade i.e. LSG / LSG-II and HSG I grade on due date and the juniors and unqualified persons were given promotion to higher grades, he represented for the same. The case of the applicant was duly considered by the authorities and the was rejected by means of an impugned order through which it is indicated that the fixation of pay in the LSG cadre is not applicable, accordingly, the claim of the applicant was rejected. The bare reading of the order dated 14.1.2009 which is impugned in the O.A. is clear to the extent that the same is non speaking order.

9. As observed by the Hon'ble Apex court in the case of **Roop Singh Nagi Vs. Punjab National Bank** (Supra), the orders which adversely affecting the employee requires speaking order.

10. Even in respect of administrative orders, **Lord Denning, M.R. in Breen Vs. Amalgamated Engg. Union reported in (1971) 2 QB 175** that **"the giving of reasons in one of the fundamentals of good**

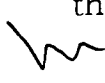
➤ **administration". In Alexander Machinery (Dudley) Ltd. Vs. Crabtree reported in 1974 ICR 120, it is observed that "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at."**

11. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the inscrutable fact of the sphinx', it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out the inscrutable face of a sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance."

12. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before authorities, , and which is the only indication to know about the matter and quality of exercise undertaken, as also the fact that the authorities concerned had really applied its mind.

13. It is settled law that an order adversely affecting has to be a speaking order. The bare reading of the impugned order is clear to the extent that the same is non speaking order. Accordingly, we are inclined to interfere in the present O.A.

14. In view of the above, the impugned order dated 14.1.2009 as contained in Annexure -1 is quashed. The matter is remanded back to the authorities to pass a reasoned and speaking order within a period



- of three months from the date the certified copy of the order is produced and the decision so taken be communicated to the applicant.

15. Accordingly, the O.A. is allowed. No order as to costs.

J. Chandra

(Ms. Jayati Chandra)
Member (A)

Navneet Kumar
(Navneet Kumar)
Member (J)

Vidya