

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW
BENCH LUCKNOW**

Original Application No 523/2009

Order Reserved on 30.6.2014

Order Pronounced on 08/7/2014

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

Chandrika Prasad aged about 52 years son of Sri Makhan Lal, Accountant, Sitapur H.Q. r/o 46 Block A, Mohalla Ambedkar Nagar, District- Sitapur.

Applicant

By Advocate: Sri R.S.Gupta

Versus

1. Union of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, U.P., Lucknow.
3. Director, Postal Services, O/o of CPMG, U.P., Lucknow.
4. Superintendent of Post Offices, Sitapur.

Respondents

By Advocate : Sri S.P.Singh

ORDER

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 the Hon'ble Tribunal may graciously be pleased to quash to orders dated 16.6.2000, 18.6.2008 and 18.12.2006 as contained in Annexure No. 1 and 2 and direct the opposite parties to consider his promotion to BCR/TBOP cadre w.e.f. 1.7.2000/12.4.1992.
- b) Direct opposite parties to pay arrears of pay and allowances along with all consequential service benefits with interest @ 18% as a consequence to relief (a) above.
- c) Any other relief allowed just and proper in the circumstances of the case.
- d) Allow O.A. with cost in favour of the applicant.

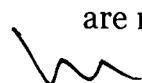
2. The brief facts of the case are that the applicant initially joined the respondents organisation in 1980 and claims for financial upgradation of TBOP and BCR after completing 10 years and 20 years of service. It is also pointed out by the



learned counsel for the applicant that he has submitted a representation to the authorities and the said representation is for granting of BCR promotion was considered and it was not found justified, as such it was rejected. The decision was communicated to the applicant. Feeling aggrieved by the said order, the applicant preferred the present O.A.

3. Respondents through their counsel filed their objection and through objection, it was pointed out that the applicant initially joined as Postal Assistant in Sitapur Division on 12.4.1980 under reservation category, as he belongs to S.C. community and the applicant was granted T.B.O.P. as first financial upgradation w.e.f. 12.4.1996 after completion of 16 years of service and was also granted the benefit of BCR as IInd financial upgradation on 12.4.2006 after completion of 26 years of service. Apart from this, an objection has also been raised by the learned counsel for the respondents that learned counsel for applicant has also challenged the order dated 16.6.2008 but he has not annexed copy of the said order. Apart from this, another objection is raised by the learned counsel for the respondents that the applicant was granted the benefit of TBOP and BCR in the year 1996 and 2006 respectively and he has preferred the O.A. in 2009, as such the present O.A. is also barred by limitation. Not only this, it is also agitated by the learned counsel for the respondents that when the benefit of TBOP was granted to the applicant in 1996 or the BCR in the year 2006, he has not agitated the same and accepted the said financial upgradations without any protest.

4. On behalf of the applicant, Rejoinder Reply is filed and through rejoinder reply, mostly the averments made in the O.A. are reiterated. Apart from this, it is also indicated by the learned



counsel for the applicant that the applicant is legally entitled to get the benefit of TBOP w.e.f.12.4.1990 and accordingly he is also entitled for the benefit of BCR i.e. second financial upgradation .

5. The respondents have also filed reply to the Rejoinder reply and through reply to the Rejoinder, the respondents have reiterated the averments made in their counter reply and denied the averments made in the rejoinder reply.

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

7. The issue involved in this case is that the applicant claims the grant of first and second financial upgradation in the form of TBOP and BCR after completion of 10 and 20 years of service since the applicant has joined the Department in 1980 as such he claims that he should be given first financial upgradation in 1990 and accordingly after completion of 20 years of service, he should be given benefit of BCR. It is also undisputed to the fact that the applicant was appointed as Postal Assistant in Sitapur Division on 12.4.1980. He was granted TBOP as first financial upgradation w.e.f. 12.4.1996 vide order dated 20.8.1996 after completion of 16 years of service as Postal Assistant after holding DPC in accordance with rules and instructions and was also given the second financial upgradation in the form for BCR after completion of 26 years of service. On 12.4.2006. It is also to be pointed out that the applicant was awarded penalty of withholding promotion for one year vide order dated 27.1.2005 in a case of gross negligence and due to pendency of said penalty, he was not granted BCR promotion on the due date in the year 2006 but the same was granted w.e.f. 1.7.2007 after the currency of penalty was over. The said order was passed by the authorities on 18.12.2007 after holding duly constituted

Departmental Promotion Committee. When the applicant was granted the said promotion, he submitted representation on 14.3.2008 and the said representation was considered and it was found that there is no merit in the representation as such the same was rejected and decision was communicated to the applicant and he has challenged the said rejection order by means of present O.A. The applicant also submitted another representation on 14.12.2008 before the Director General (Posts), New Delhi to allow him TBOP w.e.f. 12.4.1992 on completion of 12 years of service as Postal Assistant and BCR w.e.f. 1.7.2000 on completion of 20 years of service in Postal Assistant cadre on the ground of belonging to SC community.

The Govt. of India, Department of Posts, New Delhi vide communication No. 66/47/84 SPB I dated 28.12.1990 has issued certain clarifications, according to which the minimum service to be rendered by SC/ ST officials for eligibility for promotion under TBOP Scheme as roster is 10 years but if SC/ST officials with 16 years of service are not available for promotion against the reserved points, then SC/ST officials having rendered minimum service laid down in the recruitment rules may be promoted. This clarifies that all SC/ST employees completed or having 10 years of service shall not be promoted under TBOP scheme. It is also pointed out by the learned counsel for the respondents that no such orders are in existence for granting BCR promotion after completion of 20 years of service. Although the BCR promotion is granted to the officials who have completed 26 years service. It is also clarifies that BCR promotion is not a promotion but it is a financial upgradation and there is no reservation to the SC/ST officials.

For ready reference, the clarification issued in this respect is as under:-

Points for clarifications	Clarifications
7. Whether unfilled SC/ST Points of 1996 under BCR Can now be filled up after Introduction of post-based Reservation?	As per new scheme no roster are to be observed for BCR/ TBOP promotion.
8. Not only this, the Department of Post has also issued O.M. dated 6.1.1993, in which the matter has been re-examined in the light of position considering the fact that as per the TBOP/BCR scheme the general eligibility conditions is 16 years and 26 years of service respectively. It is also undisputed fact that the applicant was granted the benefit of TBOP /BCR after completion of 16 years and 26 years of service and he has not agitated when the aforesaid promotions /financial upgradations were given to the applicant. As such the objection raised by the learned counsel for respondents is sustainable. Not only this, the applicant has also prayed for quashing of order dated 16.6.2008 but he has not annexed the aforesaid order along with the O.A. Therefore, the objection of respondent is also liable to be sustained.	
9. Considering the submissions made by the learned counsel for the parties, since the benefit of TBOP /BCR has already been granted to the applicant when it was due and at that point of time, he has not agitated, as such we do not find any justified reason to interfere in the present O.A.	
10. Accordingly, the O.A. is dismissed. No order as to costs.	

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

HLS/-

Navneet Kumar
 (Navneet Kumar)
 Member (J)