

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PA TNA BENCH: PA TNA

Registration No. OA487 of 1996

(Date of order 21.11.1997)

1. Postal Officers Association (India)
Bihar Circle Branch, Patna through
Shri B.K.Karn, Circle Secretary & another . . . Applicants
2. Raj Kumar Singh, Sr. Supdt. Post Offices, Chapra
versus
Union of India & Others Respondents

Coram: Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman

Hon'ble Mr. R.K.Ahooja, Member (Administrative)

Counsel: Shri J.K.Karn for the applicant

Shri J.N.Pandey, SSC for the respondents.

Shri S.N.Tiwarey for pvt. respondent.

ORDER ON INTERIM STAY

Hon'ble Mr. Justice V.N.Mehrotra, V.C.

The applicants have in this OA prayed for quashing of the notification dated 26.9.1996 (Annexure-A/1) by which the post of Senior Timescale Assistant Postmaster General has been down graded to Assistant Director. They have also pray'd for quashing of the orders dated 18.10.1996 (Annexure-A/1) (a) and A/1(b) by which the applicant no.2 has been reverted. They have also prayed that the respondents be directed to revert respondent no.6 who is the junior-most person, instead of reverting the applicant no.2

2. The applicants have also prayed for interim relief. On that prayer, notices were directed to be issued to the parties/requiring them to show cause and at the same time it was ordered that the applicants shall not be reverted

from the Junior Timescale cadre to PSS Grade B cadre.

The respondents have filed their reply opposing the prayer for grant of interim order. On behalf of the Union of India also an application has been moved for vacating the interim order granted by this Bench.

3. In this case there is not much dispute about the facts. It is admitted that the applicant Raj Kumar Singh was promoted in the feeder cadre of Inspector of Post Offices in the year 1971 while respondent no.3, 4, 5 and 6, who belong to ST/SC category were promoted as such in the year 1972. The applicant was placed higher in the seniority list as compared to respondents no.3 to 6. However, the respondents no.3 to 6 were promoted to PSS Group B on 26.12.1988, 18.2.1989, 21.2.1989 and 24.2.1989 respectively as they were allowed accelerated promotion. The applicant was however promoted to PSS Group B on 11.6.1990. Due to their earlier promotion to PSS Group B, the respondents no.3 to 6 were placed higher than the applicant in the seniority list. Later on, the respondent no.6, who is the junior-most amongst the respondents no.3 to 6 was promoted to the next higher grade of Junior Timescale of Group A Cadre on ad hoc basis on 11.10.1993. The applicant was however, promoted to the Junior Timescale of Grade A post on ad hoc basis in April, 1996.

4. The Government of India later on reviewed the cadre of Indian Postal Services Group A and passed the impugned order dated 26.9.1996 by which 14 posts of Assistant Postmaster General which were in the Senior Timescale of 3000-4500 were down-graded to the post of Assistant Director in PSS Group B in the Scale of Rs.2000-3500 and also down-graded 6 posts which were in the Junior Timescale of Rs.2200-4000 to the scale of Rs.2000-3500 in Group B. One of the posts

W

which was down-graded to PSS Group B belongs to Bihar Circle. In pursuance of the downgrading of this post, the orders Annexures-A/1(a) and A/1(b) dated 18.10.1996 were issued and the applicant R.K.Singh was reverted from J.T.S. to PS Group B cadre on the ground that he was the junior-most person.

5. The contention by the applicant is that he was senior to the respondent no.3 to 6 in the feeder cadre of Inspector as he had been promoted to that cadre earlier than these respondents, and he would have regained his seniority in the PSS Group B cadre after he was promoted to that cadre even though the respondents no.3 to 6 had got accelerated promotion due to their being reserved candidates. It is further claimed that though the respondents no.3 to 6 were again promoted to the JTS cadre prior to the applicant, however, when the applicant was promoted to that cadre in the year 1996, he would have regained his original seniority i.e. he would have been placed above respondents no.3 to 6 and, also, it cannot be said that he was the junior-most person who could be reverted due to downgrading of the post of Assistant Postmaster General. The learned counsel for the applicant has placed reliance on the decision in the case Union of India vs Virpal Singh Chauhan reported in 1995 AIR SCW 4309 and also in the case R. K. Sabharwal vs. State of Punjab, 1995 SC (L&S) 548.

6. The learned counsel for the respondents including the learned Senior Standing Counsel representing Union of India have however, contended that the applicant was junior to respondent no.3 to 6 as he was promoted to the JTS cadre in the year 1996 while the respondent no.6 had been promoted in the year 1993 and the remaining respondents i.e. respondents 3 to 5 were promoted earlier to him. It has been further contended that the question of the applicant regaining his seniority after being promoted to PSS B Cadre or JTS Cadre

cannot arise. The learned counsel have placed reliance on the decision in the case Jagdish Lal vs. State of Haryana, AIR 1997 SC 2366 and also the decision in the case Akhil Bharatiya Shoshit Karamchari Sangh Vs. Union of India 1996 SCC (L&S) 1346. They have contended that the decision in the case~~s~~ relied upon by the learned counsel for the applicant were prospective in application and could not be applied to the present case where the respondent no.6 had been promoted in the year 1993. The decision in Virpal Singh Chauhan's case was delivered on 10.10.1995 and the decision in R.K.Sabharwal's case was delivered on 10.2.1995. This argument by the learned counsel for the respondents finds support from the view taken in Akhil Bharatiya Shoshit Karamchari Sangh's case and Jagdish Lal's case (supra).

7. In Jagdish Lal's case (supra) their Lordships observed that the seniority gained by a SC/ST candidate because of his accelerated promotion as per rule of reservation does not in all events get wiped out on promotion of general candidate. On promotion to the higher cadre, the reserved candidate steals a march over general candidate and becomes a member of the service in the higher cadre or grade earlier to the general candidates. Continuous length of service gives him the seniority. Therefore, seniority cannot/re-open/after the general candidate gets promoted to the higher cadre-grade though he was erstwhile senior in the feeder cadre/grade.

8. In view of the above mentioned decision by the Hon'ble Supreme Court, it is, at this stage, not possible to agree to the contention by the learned counsel for the applicant that the applicant was senior to the respondent no.6 and so the respondent no.6 should have been reverted to the PSS Group B, instead of the applicant when the post

which the applicant was holding was down-graded. In the circumstances, we do not find that the applicants have made out a *prima facie* case for grant of interim stay. In the circumstances the prayer for interim stay is rejected and the interim order passed on 30.10.1996 is hereby vacated.

~~RKDA~~
(R.K. AHOJA)
MEMBER (A)

V.N.M.
(V.N. MEHROTRA)
VICE-CHAIRMAN
21/11/97

MA