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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH LUCKNOW.

O.A.No.24-C of 1988.

Mathura PrasadApplicant.

Versus

Director General(Posts) & others .Respondents.

Hon'ble Mr.Justice U.C.Srivastava, V.C.

Hon'ble Mr.K.Obayya,A.M.

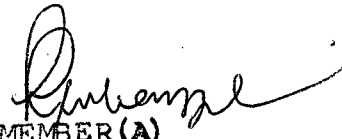
(By Hon'ble Mr.Justice U.C.Srivastava,V.C)

The applicant entered the Postal Department in U.P.Circle as Clerk in the year 1953. He was promoted as Inspector of Post Offices in 1959. He finally worked as Assistant Superintendent of Post Offices,Kanpur in 1976 in non-gazetted cadre. He was promoted as Superintendent of Post Offices in group 'B' of P.S.S. vide order dated 27.4.79 and was allotted U.P.Circle. This promotion to Senior Time Scale of IPS Group 'A' is on purely ~~on~~ temporary basis and adhoc basis by the Post Master General, U.P.Circle, Lucknow-respondent no.2 and not by the Director General(Posts)New Delhi-respondent no.1. On the basis of recommendations of the respondent no.2, the respondent no.1 made regular appointment of juniors in junior-time-scale of IPS group 'A' vide order dated 2.5.83 and the applicant was again ignored and passed over by the juniors. According to the applicant, he came to know that there was something against him and, therefore, the respondents no.1 and 2 withheld the promotion of the applicant which is a minor ^{and} penalty/which can only be inflicted after observing procedure under Rule 16 of CCS(CCA) Rules, 1965. The applicant raised voice against it coming to learn that a sealed cover procedure in the case was adopted.The applicant has categorically

asserted that he was neither under suspension nor he was ever served with a charge memo for major penalty. On 8.7.81 when the juniors were promoted to the senior time scale of I.P.S. group 'A', the conduct of the applicant was not under investigation. The charge memo for the first time was issued on 16.2.84 for minor penalty and ended in administering a warning vide respondent no.2's memo dated 17.2.88 which is not a statutory penalty.

2. The respondents have admitted that the applicant was not approved by the Appointing Authority either for Junior Time Scale of Group 'A' or to the Senior Time Scale of the Group 'A' till 31.3.84 and a local arrangement obviously was made and the promotion was made on 13.2.85 by the Appointing Authority in accordance with the instructions of the Government of India but the applicant was not recommended by the respondent no.2 Post Master General, U.P.Circle for appointment and while considering the appointment to the grade in February, 1983, the D.P.C. kept the case of the applicant into a sealed cover because his conduct was under investigation. There is no denial of the fact that a charge-sheet was served. When the question of promotion was considered by the D.P.C., there was no charge-sheet against the applicant and no criminal case was pending against him and as such the applicant's case could ^{not} have been placed in the sealed cover and the respondents were bound to consider his case. In case he deserved promotion, he could be promoted. The proceedings of D.P.C. dated 14.12.87 have been produced before us in which it has been said that in the minutes of the Departmental Promotion Committee held on 16th, 17th and 18th Feb, 1983, it was found that the name of the applicant

has figured at S.No.92 of the eligibility list and his sealed cover is available on record. With the implementation of the recommendations of the DPC by opening sealed cover, the applicant will be promoted to junior time scale of the Indian Postal Service w.e.f. Feb., 1983. As the result of the applicant was wrongly kept in a sealed cover and there was never any refusal on his part to do the work, the respondents have committed an error in doing the same and the applicant cannot be deprived of getting salary also. ~~Accordingly, the respondents are directed to promote the applicant from the date his juniors have been promoted.~~ In case, the sealed cover has not been opened, the same shall be opened within a period of three months from the date of communication of this order and the applicant shall be promoted from the date his juniors have been promoted. He will also be entitled to get the consequential benefits including arrears of salary in view of the fact that the respondents have not promoted the applicant earlier although he was fully entitled for the same ^{and never refused it}. With these observations the application is disposed of without any order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: JULY 13, 1992

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