

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 750/87

199

T.A. NO:

DATE OF DECISION 13-11-92

Shri V.S.Kulkarni

Petitioner

Shri D.V.Gangal

Advocate for the Petitioners

Versus

Union of India Through

Respondent

Postmaster General,
Maharashtra Circle Bombay & Ors.

S hri P.M.Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. S.K.Dhaon, Vice-Chairman

The Hon'ble Ms. Usha Savara, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ?

U. Savara
13. 11. 92
(Ms. Usha Savara)
Member(A)

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(11)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
BOMBAY

O.A. No. 750/87

Shri V.S.Kulkarni

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Applicant

vs

Union of India
Through Postmaster General,
Maharashtra Circle
Bombay and others.

...

Respondents

Coram: Hon'ble Justice S.K.Dhaon, V.C.

~~Coram~~ Hon'ble Ms. Usha Savara, Member(A)

Appearance:

Shri D.V.Gangal
for the applicant

Shri P.M.Pradhan for the
respondents.

Judgement

(Per: Hon'ble Ms. Usha Savara
Member(A))

Dated: 13-11-92

The only issue raised in this O.A. is whether the applicant is entitled to a direction from the Tribunal to step up his pay to that of his junior and for consequential reliefs.

The facts are undisputed. The applicant was undoubtedly senior to Shri Chiplunkar, as he joined on 26.9.52 as Postal Assistant in Pune, and Shri Chiplunkar joined in the same cadre on 1.3.53. They were both on the gradation list maintained by the Postmaster General, Maharashtra Circle. The applicant took a transfer to Sangli Division under Rule 38 of P & T Manual Vol. IV. Whereas such a transfer did not affect his seniority in the promotional cadre of L.S.G. as he remained in the same circle, he did rank junior in the gradation list of the new unit to all officials of that unit, on the date on which the transfer order was

issued

/including all persons who had been approved for

appointment to that grade as on that date. (Rule 38.2)

Shri Gangal learned counsel for the applicant, fairly conceded that Shri Chiplunkar had got two advance increments for passing the English and Hindi Morse tests, and the applicant was not staking his claim for being given those increments. His sole grievance is that the applicant was allowed to officiate in the L.S.G. cadre from 16.1.77 to 21.6.78, which entitled him to an advance increment, whereas the applicant was denied this opportunity, although he was senior to Shri Chiplunkar, and was entitled to such an officiation as per rules. Since the applicant was not granted officiating increment, and Shri Chiplunkar was granted the officiating benefits, the anomaly has arisen, and the same should be corrected by stepping up the applicant's pay to that of Shri Chiplunkar.

The short question is whether the applicant was entitled to the officiating promotion, and the advance increment, which was granted to Shri Chiplunkar. Shri Pradhan, learned counsel for the respondents vehemently contested this point. He relied upon the P & T Rules in support of his contention that the applicant, having taken a request transfer to Sangli Division from Pune Division, ranked junior of the new unit. As he was ranked junior in the gradation list, the respondents were not bound to grant him officiating promotion, and therefore, there was no merit in the application.

/gradation
list

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Rule 38.2 is very clear on the point of applicant's ranking junior in the gradation list at Sangli Division, and also he ranks junior to all persons, who had been approved for appointment to that grade as on the date of the transfer. Rule 27-B of P & T Rules governs the promotions to the L.S.G. or H.S.G. It lays down that such promotions should normally be made in order of seniority, but the appointing authority may, in his discretion, pass over any senior official whom he does not consider fit for promotion. Rule 27-B only concerns itself with regular promotions, and cannot be invoked in the instant case, where we are only dealing with the question of filling of temporary vacancies. Rule 50 makes a distinction between vacancies of not more than one month's duration and vacancies of more than one month's duration but not of more than four month's duration. In the case of vacancies of more than 4 month's duration, Rule 50 specifies that the officiating arrangement may be confined to the officials in the office, sub division or Division where the vacancy occurs. In this case, since the applicant had come on transfer at his own request, and ranked junior to all persons in the gradation list in the Division, it was but proper not to grant him the officiating promotion, but to grant the same to Shri Chiplunkar, who ranked senior to him in the Division, though not in the circle. For purposes of officiation in a Division, what would be relevant would be the seniority in the Division, whereas for regular promotions, circle seniority would be the determining factor. IN

In the circumstances, we are of the opinion that there is no merit in the application. The O.A. is dismissed but with no order as to costs.

U. Savara
(Ms. Usha Savara) 13.11.92,
Member(A)

S.K. Dhaon
(S.K. Dhaon)
Vice-Chairman