

so far as the employees who have already stagnated upto that date. With respect to other employees who would be completing 16 years of service after 30-11-83, - instructions are that similar procedures would follow, periodically.

The applicant has been working as a Clerk in the Postal Department from 27-6-60. This post is also designated as Postal Assistant or Sub-Post Master. But, all these posts are equivalent. The grievance of the applicant is that he has not been given next higher grade and scale in accordance with the above mentioned instructions, though he had completed 16 years of service prior to 30.11.1983. The pay scale of clerk was Rs.260-480 and the next higher grade and scale to which such clerks who have completed 16 years of service would be entitled to get is Rs.425-640.

In order to meet the claim of the applicant, the Respondents have filed a reply contending that there was some fraud in the office where the applicant was working. The fraud involved a huge amount of over Rs.50,000/-. It appears that the applicant, has on 11-8-82, given a statement accepting his liability and agreed to make good his share of the loss sustained by the Department. A copy of his statement is at pages 23-27 of the compilation. In that statement, the applicant has admitted that he is liable to make good the loss to the extent of his liability. It is not necessary to go into the question as regards the fraud that has been attributed to the applicant. It is not disputed that the case of the applicant has not been forwarded to the Departmental Promotion Committee which held its meeting in 1984. The said

Committee was constituted in pursuance of Para 2 of the Scheme dated 17-12-1983.

Mr. Atre submits that the department did not recommend and send up the name of the applicant to the Departmental Promotion Committee in view of the alleged fraud. In our opinion, this procedure would not be correct. All persons who are eligible for being considered for the next higher grade and scale under the scheme must be dealt with by the Departmental Promotion Committee and it is for the Departmental Promotion Committee to come to a conclusion whether a particular employee is or is not entitled to get next higher grade and scale. The omission to send names to the said Committee would be inconsistent with the scheme. It would be necessary for the department to send the name of the applicant along with his record to the Departmental Promotion Committee. It is true that the Departmental Promotion Committee has already held its meeting in 1984 and, thereafter <sup>after</sup> some intervals. It was contended by Mr. Atre that the case of the applicant would be submitted to the Departmental Promotion Committee that would be constituted hereafter. In our opinion, this would not be correct. A special Departmental Promotion Committee will have to be constituted by the Department for considering the case of the applicant alone, if necessary. Hence we pass the following orders.

O R D E R

- 1) The Respondents are directed to constitute and convene a special Departmental Promotion Committee meeting within two months from to-day so as to enable the

Committee to consider the case of the applicant as to whether the applicant was entitled to have the next higher grade and scale in terms of the scheme dated 17-12-1983.

- 2) The said Committee, while considering the claim of the applicant, will take into account all the factors that were available against and for the applicant upto 30-11-83.
- 3) It is needless to say that the Departmental Promotion Committee would follow the sealed cover procedure, if necessary to do so.
- 4) The parties to bear their own costs of this application.

*B.C. Gadgil*

(B.C. GADGIL)  
VICE-CHAIRMAN.

*J.G. Rajadhyaksha*

(J.G. RAJADHYAKSHA)  
MEMBER(A)