

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH; PATNA**

Original Application No. 420/2005

Date of decision: 22.2.2011.

**CORAM: HON'BLE MRS. JUSTICE REKHA KUMARI, MEMBER (J)
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Arun Kumar Choudhary s/o Shri Shiv Nandan Choudhary, Postal
Assistant Bankipore H.O. Patna 800 004

..... Applicant.

Rep. By Sh. A.N. Jha, Counsel for the applicant.

Versus

1. The Union of India through the Secretary, Ministry of Communication Department of Posts Government of India, New Delhi cum The Director General, Department of Posts, India Dak Bhawan, New Delhi 110 001.
2. The Chief Postmaster General Bihar Circle, Patna 800 001.
3. The Sr. Superintendent of Post Offices, Patna Division, Patna 800 004.

.....Respondents.

Rep. By Sh. B.K. Prasad, Counsel for the respondents.

ORDER


Per Mr. Sudhir Kumar, Member (Administrative)

The applicant is a Postal Assistant in Patna Division w.e.f. 16.4.1987 and belongs to S.C. Category. He is before this Tribunal having been aggrieved by the delay in grant of benefits of promotion to him in timely manner under the Time Bound One Promotion (TBOP) Scheme and to the next higher grade under the Biennial

Cadre Review (BCR) Scheme from the dates on which he considers to have become eligible for those benefits.


2. The TBOP Scheme was introduced by the Directorate General, (P & T), New Delhi, effective from 30.11.1983 through orders dated 17.12.1983. It involved grant of a promotion to the next higher grade to Group-C and Group-D officials on completion of 16 years of service in their basic operative cadres.

3. The applicant was granted the benefits of TBOP through Annexure A/3 dated 7.7.2003 effective from the date of 14.5.2003. His submission, however, is that as a SC candidate he was eligible for grant of the benefit of the TBOP w.e.f. 16.4.1997, since there was a requirement of completion of only 10 years of service in the case of S.C. candidates, which he had completed on 15.4.1997.


4. Further thereafter, the BCR Scheme was made effective from 10.10.1991, on completion of 26 years of service. The applicant has submitted that 40 point roster was applicable for these TBOP and BCR promotions also, and submitted that there was a stipulation that SC/ST candidates having 10 and 17 years of service in the basic grade were eligible for promotion under the TBOP and BCR Scheme^s, which has been denied to the applicant, and he had completed his 10 years of service on 15.4.1997, and 17 years of su. service on 15.4.2004, and hence became eligible for these benefits su. immediately thereafter. He also produced the relevant orders dated 11.10.1991, through Annexure A/4.

5. The applicant submitted that he had submitted his representation dated 19.1.2005 before the Sr. Superintendent of

Post Offices, Patna Division (Respondent No. 3) for grant of TBOP Scheme benefit on completion of 10 years of service in the basic grade, and for the grant of further promotion under the BCR Scheme which became due to him from 16.4.2004, but they had not replied so far. The applicant himself submitted in para 4.3 of the O.A. that the officials promoted under TBOP Scheme continue to work as Postal Assistants till they are posted in the Lower Selection Grade (LSG) or Higher Selection Grade-II (HSG-II) respectively, but they are paid salary of the higher scale of pay. It was submitted that not giving timely promotion under the TBOP from the due date from 16.4.1997 and non promotion to HSG-II under the BCR Scheme has vitiated his rights under Articles 14,16 and 21 of the Constitution, and therefore he prayed for the following reliefs:—

- 
- "a) That the respondents authorities may be directed to promote the applicant under the OTBP Scheme in the pay scale of Rs. 4500-125-7000 from 16.4.1997 instead of 14.5.2003 on completion of 10 years of service in the basic grade and allow all other consequential benefits including arrears of pay and allowances.
 - b) That the respondents authorities may be directed to promote the applicant under the BCR Scale Scheme from 16.4.2004 in the pay scale of Rs. 5000-150-8000/- with all consequential benefits including arrears of pay and allow dances.
 - c) Costs of the case.
 - d) Any other relief(s) deemed fit and proper."

6. The respondents filed their written statement on 28.10.2005. They admitted that the applicant had joined as Postal Assistant in Patna Division against the S.C. quota vacancy. It was stated that the applicant had been granted the benefit of higher scale of pay under the TBOP Scheme w.e.f. 14.5.2003 vide order dated 17.7.2003, and the applicant was continuing as such. The respondents further averred that as per the instructions prevailing in the Department, there is no need to maintain roster for TBOP/BCR Schemes, as these benefits are not post based. Rosters are maintained only for the regular promotions to the Lower Selection Grade (LSG) norm based posts only in Divisional offices, and for HSG-II and HSG-I norm based posts the rosters are maintained at Circle Level. As such, they submitted that there was no need to maintain roster for TBOP/BCR promotions, and thus there was no need to relax standards for SC/ST for filling up any short fall.

 Therefore they prayed that the O.A. is devoid of merits, the applicant is not entitled to any relief as prayed for in the O.A, and that the O.A. was liable to be dismissed with costs.

7. During the course of arguments learned counsel for the applicant and the learned counsel for the respondents argued their cases on the lines of pleadings on record, as well as the provisions of the TBOP/BCR Schemes.

8. As has been settled in a number of cases by the various Benches of this Tribunal, and in a number of cases by this very Bench, and also in response to the query raised by the Hon'ble Patna High Court in a particular case remanded to this Tribunal for

reconsideration by the Hon'ble High Court, the TBOP and BCR Scheme promotions are only financial benefits akin to the Assured Career Progression (ACP) Scheme available in other Departments/Ministries of Govt. of India. The benefit under TBOP for providing the pay scale of Lower Selection Grade (LSG) to Postal Assistants is not a promotion to be counted against the roster of promotion. In the same manner, a financial benefit granted under the BCR Scheme from Lower Selection Grade (LSG) level to the Higher Selection Grade (I) (HSG-II) pay scale under the BCR Scheme on completion of 26 years of service in the basic grade is also not a promotion to be counted against the roster. Effect of these two schemes is that either the Postal Assistant gets his promotion in the normal course to the Lower Selection Grade (LSG) against the roster vacancies in the Division in which he ~~has~~^{is} borne before completion of 16 years of service, or he is accorded financial benefits of such notional promotion by giving him Lower Selection Grade pay scale under the TBOP scheme on completion of 16 years of his service.

9. If an employee in the Lower Selection Grade does not get his regular promotion within 10 years of his coming into the Lower Selection Grade (either through regular promotion, or by way of TBOP benefits) he becomes entitled to the benefit of BCR Scheme for coming into Higher Selection Grade (II), on completion of a maximum of 26 years of service.

10. Those employees who get promotion into LSG prior to 16 years of service as Postal Assistant, and/or get promoted from LSG to HSG -(II) level before completion of 10 years in the LSG grade, do

not have to fulfill the requirement of 16 years for TBOP benefit and 26 years for BCR benefit both of which are notional promotions, and merely a financial benefit. Only those persons who had not been promoted in time in the regular course, have to avail the benefits of TBOP Scheme on completion of 16 years of service in their feeder grade, and for grant of BCR benefits after further 10 years of service in the LSG Grade. This aspect of the Scheme is clear from paragraph (iv) of the order dated 11.10.1991 regarding BCR review produced by the applicant at Annexure A/4.

11. Since both TBOP and BCR are merely financial benefits, and not regular promotions, the claim of the applicant that he is entitled to concessions and relaxations under these Schemes as applicable to SC/ST in the case of regular promotion also is not tenable and acceptable.

12. In the result, we do not find any fault in the course of the action adopted by the respondents in having granted the applicant the benefits of TBOP Scheme on the date he completed 16 years of service, as he had not become eligible for regular promotion on the roster based vacancies in the regular course within the Division till that date. The applicant now has to wait for a maximum of 10 years in the LSG pay scale before he can lay his claim to the benefits of BCR Scheme, but it is also possible that his turn for regular promotion to HSG-Gr. II may come before he completes 26 years of service, when he would become entitled to his regular promotion itself, without requiring the benefits of BCR Scheme after completing 26 years of total service.

13. In the result, there is no merit in the O.A. and the same is rejected, with no order as to costs.


(SUDHIR KUMAR)
MEMBER(A)


(JUSTICE REKHA KUMARI)
MEMBER (J)

SK