

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH**

O.A. No. 720 of 2005

Date of order : 14.2.07

C O R A M

**Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Shri S.N.P.N. Sinha, Member 9 A)**

Chaudhary Keshari Kishore Sinha, S/o Chaudhary Saket
Bihari Sinha, resident of village & P.O. - Mohammadpur Susta,
P.S. Dholi, District- Muzaffarpur.

....Applicant

By Advocate : Shri J.K. Kam.

Vs.

1. The Union of India through the Secretary cum D.G.,
Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle, Patna.
3. The Post Master General, Northern Region, Muzaffarpur.
4. The Director Accounts (P), Exhibition Road, Patna.
5. The Sr. Superintendent of Post Offices, Muzaffarpur.

....Respondents

By Advocate : Shri S.K. Tiwary.

ORDER

Sadhna Srivastava, M (J):-

The applicant has raised a grievance that due to
delayed grant of promotion in higher grade under One Time
Bound Promotion (OTBP in short) and Biennial Cadre
Review (BCR in short) Schemes, after 16 and 26 years of



service, his pension and pensionary benefits have been affected.

2. The facts are that the applicant as alleged was appointed in Postal Department with effect from 1.11.1969 and retired voluntarily with effect from 30.9.2002; that he was entitled to grant of promotion in higher grade under OTBP and BCR Schemes after completion of 16³ and 26¹ years of service with effect from 1.11.1985 and 1.11.1995. However, the same were granted to him with effect from 16.2.1999 and 1.7.1999 respectively. Therefore, his pension and pensionary benefits have been affected.

3. The respondents in their reply have alleged two relevant points, firstly that the applicant was given substantive appointment as Clerk in postal department with effect from 1.3.1973. Promotion under OTBP or BCR Scheme operate from the date of regular appointment. They are not applicable from the date of temporary or ad hoc appointments. The applicant has not disclosed the date of substantive appointment nor filed rejoinder to rebut the date of regular



appointment. Neither side has filed documents in support or rebuttal. Secondly, the respondents have pointed out that the applicant was punished with reduction to one lower stage in the ^{B time} ~~scale~~ scale of pay for a period of one year with effect from 1.3.1988. The other pleas raised by the respondents are not relevant. They have contended that the applicant was placed under suspension for some months in the year 1985. They have also pleaded that the applicant was irregular. The respondents have, however, not specifically replied to the allegations of the applicant as to why promotion under one ^A Time Bound Promotion or BCR Schemes were granted with effect from 16.2.1999 and 1.7.1999 respectively.

4. We have heard the learned counsel for the parties.

5. At the out-set, we may observe that to qualify for promotion, the least that is expected of an employee is to have a good conduct. An employee found ^A ~~of~~ guilty of misconduct cannot be placed at par with other employees. At least during the period of punishment, promotion need not be

granted. However, in the instant case, no such contingency arises. The reason is that according to respondents the applicant was given substantive appointment in the department with effect from 1.3.1973. therefore, he completed 16 and 26 years of service on 1.3.1989 and 1.3.1999 respectively. It has not been shown that he was undergoing any punishment on 1.3.1989 or 1.3.1999. Consequently, we may hold that the applicant was entitled to promotion in higher grade under the above said two Schemes with effect from 1.3.1989 and 1.3.1999 respectively.

6. Before we part, it may be mentioned that the instant OA was filed in the year 2005. The applicant retired in the year 2002. The delay in the grant of promotion in ³ higher ~~the~~ grade was caused in the years 1989 and 1999. Therefore, we consider it appropriate to confine relief to the applicant in respect of pension and pensionary benefits due to him on the basis of determination of the correct dates for grant of higher grade under the above two schemes.

7. Resultantly, we direct the respondents to re-fix the

pay of the applicant notionally for the purpose of revision of pension and pensionary benefits on the basis of deemed grant of higher grade under OTBP and BCR Schemes with effect from 1.3.1989 and 1.3.1999 and accordingly, revise the retirement benefits and make payments thereof. The exercise shall be completed within three months of the receipt of copy of this order. There will be no order as to the costs.


[S.N.P.N. Sinha] M [A]


[Sadhna Srivastava] M [J]

/cbs/