

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 758/2001

DATE OF DECISION:

Shri M.E. F. Raphael Applicant.

Shri S.P.Kulkarni Advocate for
Applicant.

Verses

Union of India and others Respondents.

Ms. H.P. Shah Advocate for
Ms. H.P. Shah Respondents

CORAM

Hon'ble Shri Justice B.Dikshit, Vice Chairman

Hon'ble Shri M.P.Singh, Member(A)

(1) To be referred to the Reporter or not? } NO

(2) Whether it needs to be circulated to
other Benches of the Tribunal? }
(3) Library.


(M.P.Singh)
Member (A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 758/2001

MONDAY the 25th day of FEBRUARY 2002.

CORAM: Hon'ble Shri Justice B.Dikshit, Vice Chairman
Hon'ble Shri M.P.Singh, Member (A)

M.E.F. Raphael
Residing at
Nirmalnagar, 8/264,
Bandra East, Mumbai.Applicant.

By Advocate Shri S.P. Kulkarni.

V/s

1. Union of India through
The Senior Superintendent of
Railway, Air Mail Sorting
Division, Mumbai.
2. The Chief Postmaster General
Maharashtra Circle, II floor,
Old G.P.O. Bldg.,
Near C.S.T. Fort,
Mumbai.
3. Smt. L.P. Raj
A.H.R.O. H.R.O.(Accountant),
Air Mail Sorting Division
Mumbai.Respondents

By Advocate Ms. H.P.Shah.

ORDER (ORAL)

{Per M.P. Singh, Member (A)}

In this OA, the applicant is challenging the order dated 31.5.2001 and has sought direction to quash the said order as it is arbitrary and violative of principles of natural justice. He has also sought a direction that he is entitled to fixation of pay in TBOP with effect from 6.1.1999 and promotion as Assistant Head Record Officer (AHRO) Accountant with effect from 1.4.2001 in preference to his junior i.e. respondent No.3.

:2:

2. The brief facts are that the applicant entered the Postal department as Sorting Assistant on 23.3.1986. He passed post office and Railway Mail sorting Accountant (PO & RMS) Examination in May 1994. He has been working in the present post of Accountant (Rs. 4000 - 6000) with special pay of Rs. 180/since 9.3.1995. According to him, the respondents have promoted one Smt L.P. Raj, A.H.R.O. (Officiating) Accountant in the Lower Selection grade (LSG) in the pay scale of Rs. 4500 - 7000 (Revised) with effect from 1.4.2001. The applicant passed the PO & RMS Accountant examination in 1994 and has been posted as Accountant from 9.3.1995, whereas Smt. L.P. Raj passed the PO & RMS Accountant examination in the year 1998 and she has been posted as Accountant with effect from 25.9.1999. Thus the applicant is senior to Smt. L.P. Raj in the cadre of Accountant. It is stated by him that the vacancy in the grade of LSG Accountant is required to be filled in from amongst qualified Accountants as per seniority of PO & RMS Accountants maintained on the basis of year of passing the examination. As per this criterian the applicant is the senior most PO & RMS Accountant due for consideration for promotion to the post of LSG Accountant. The applicant submitted a representation on 9.4.2001 and again on 5.5.2001 whereby he had requested the respondents to promote him as AHRO (Accountant) (LSG). The representation of the applicant has been rejected by order dated 31.5.2001.

3. According to the applicant, respondent No.3 has been granted TBOP on 6.10.1999 in General Line (LSG) from 1.4.2001 on the basis of length of service in the SA Cadre. The grant of

...3...

:3:

LSG in Accountant Cadre is on the basis of seniority in the Accountant Cadre only as has been held ⁱⁿ by the decision of the coordinate Bench of this Tribunal in the Case of Bed Singh V/s Union of India and others (OA 45/91 decided on 24.2.1995). Since the representation of the applicant for his promotion to the next higher grade has been rejected by the respondents, he has filed this OA claiming for the above relief.

4. The respondents have contested the case and stated that Recruitment Rule of Accountants - 1970 are not in vogue as claimed by the applicant. On the contrary, Rules have become obsolete due to introduction of TBOP and BCR Scheme and further clarification issued by the Director General vide order dated 1.1.1998. Hence seniority is to be fixed with reference to the length of service of employees in Sorting Assistant cadre and not with reference to the date of passing the Accountant examination. Hence the calim of the applicant has no locus-standi.

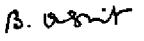
5. We have heard the counsel for the parties and perused the records.

6. During the course of the the argument, the learned counsel for the applicant has stated that the present OA is covered by the judgement of the Principal Bench of the Tribunal dated 24.2.1995 in Bed Singh's case in OA 45/91. The applicant is, therefore, entitled for promotion as A.H.R.O. (Accountant) under the Statutory Rules of 1970.

WJ

7. On persual, we find that the present OA is covered on all fours by the judgement of Principal Bench dated 24.2.1995, in the case of Bed Singh in OA 45/91. Therefore, we allow the OA and quash and set aside the impugned order dated 31.5.2001. We direct the respondents to consider the case of the applicant on merit under the Statutory Rule of 1976 by holding a Review DPC. If he is found suitable he should be promoted from the date his immediate junior was promoted with all consequential benefits. The respondents shall implement these directions within a period of 3 months from the date of receipt of a copy of this order. No order as to costs.


(M.P.Singh)
Member(A)


(B.Dikshit)
Vice Chairman

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, MUMBAI

Dated this Monday the 16th day of August, 2010

Coram: Hon'ble Shri Jog Singh - Member (J)
Hon'ble Shri Sudhakar Mishra - Member (A)

Contempt Petition Nos. 5 to 11 of 2003
in
OA Nos. 225/95, 991/97 718/97, 1001/97, 497/01, 918/01 &
758/01

1. D.R.Chaubal	- Petitioner in CP 5/03
2. S.J.Sai	- Petitioner in CP 6/03
3. P.Sivan	- Petitioner in CP 7/03
4. D.K.Abnave	- Petitioner in CP 8/03
5. S.P.Mulay	- Petitioner in CP 9/03
6. P.S.Iyer	- Petitioner in CP 10/03
7. M.E.F.Raphael	- Petitioner in CP 11/03

✓ (By Advocate Shri S.P.Kulkarni)

Versus

1. Shri R.Ganesan,
Chief Postmaster General
2nd Floor, Old GPO Building,
Walchand Hirachand Marg, Behind CST,
Central Railways, Fort, Mumbai.
2. Shri R.S.Mannurkar,
Assistant Postmaster General,
2nd Floor, Old GPO Building,
Walchand Hirachand Marg, Behind CST,
Central Railways, Fort, Mumbai.

(By Advocate Smt.H.P.Shah) - Respondents

O R D E R (Oral)

Per: Shri Jog Singh, Member (J)

The present Contempt Petitions have been filed
for non-implementation of the Order dated 25.2.2002 passed

in OA. 225/95 (Dilip Raghunandan Chauhan Vs. Union of India

& others) and other connected OAs (viz. 991/97 718/97, 1001/97, 497/01, 918/01 & 758/01). By the said order of the Tribunal, the respondents were directed to consider the case of the applicants on merits under the Statutory Rules of 1976 by holding review DPC. It was further directed by this Tribunal that in case the applicants were found suitable they should be promoted with consequential benefits.

2. The respondents challenged the above-said order by way of Writ Petition Nos. 91/03, 90/03, 88/03, 81/03 & 78/03 respectively and notices were issued by the Hon'ble High Court. On 15.2.2003, the above-said Writ Petitions were admitted by the Hon'ble High Court. The learned counsel has fairly stated that during the pendency of the said Writ Petitions, some of the applicants have already been considered by the review DPC. Three applicants have been granted promotion to the post of Accountant (Lower Selection Grade). The learned counsel for the applicants states that he would not press the Contempt Petitions at this stage if similar treatment is meted out to the other remaining applicants, by the respondents, in due course of time. He also requests that in case any eventuality arises in future, after disposal of the aforesaid Writ Petitions

by the Hon'ble High Court, the applicants would be granted liberty to approach the appropriate forum as per law to re-agitate their grievance, if any. The submission of the learned counsel appears to be bona fide and fair. Accordingly, the Contempt Petition Nos. 5/03, 6/03, 7/03, 8/03, 9/03, 10/03 and 11/03 are disposed of with the aforesaid liberty. Notices discharged.

CP No. 5/03 6/03 7/03 8/03 9/03 10/03 11/03

NO. CAT/MUM/JUDL/O.A. 225/95 991/97 718/97, 1001/97, 497/01, 918/01, 758/01

DATE :

Copy to :

1. Shri. S. P. Kulkarni, Counsel for Applicant
2. Smt. H. P. Shah, counsel for Respondents.

SECTION OFFICER