

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1106/92
Transfer Application No.

Date of Decision : 28/3/95.

Shri Mohamed Naziruddin

Petitioner

Shri S.P. Kulkarni

Advocate for the
Petitioners

Versus

Union of India & Ors.

Respondents

Shri S.S. Karkera for Shri P.M. Pradhan

Advocate for the
respondents


C O R A M :

The Hon'ble Shri B.S. Hegde, Member(J)

The Hon'ble Shri M.R. Kolhatkar, Member(A).

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?


(B.S. HEGDE)
MEMBER (A).

abp.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

O.A.1106/92.

Shri Mohemed Naziruddin ... Applicant.
V/s.
Union of India & Ors. ... Respondents.
CORAM: Hon'ble Shri B.S.Hegde, Member(J).
Hon'ble Shri M.R.Kolhatkar, Member(A):

APPEARANCES:

Shri S.P.Kulkarni, Counsel for
Applicant.
Shri S.S.Karkera, for
Shri P.M.Pradhan) Counsel for
Respondents.

ORAL JUDGMENT:

DATED : 28/3/95.

Per Hon'ble Shri B.S.Hegde, Member(J)

The Applicant has filed this OA under section-19 of the Central Administrative Tribunal's Act seeking for quashing of the order issued by the respondents dated 29/1/92 at Annexure A-1 directing the Respondents to give retrospective promotion to the applicant w.e.f. 30/11/83 with all consequential benefits.

2. The Respondents vide their orders dt. 28/2/89 at Annexure A-3 and 5/6/89 at Annexure A-4 respectively in exercise of the powers under Rule 29 of CCS (CCA) Rule 1965 set aside the penalty imposed against the applicant stating that the penalty imposed was duly unjustified and set aside. Subsequent to the quashing of the order of penalty imposed against the applicant, the respondents vide their order dt. 19/11/90 on recommendation of DFC held on 12/11/90 considered the applicant for the selection in one One Time Bound Promotion Scheme and promoted the applicant to the higher scale of pay of Rs.1400-2300 w.e.f. the date of

completion of 16 years of continuous qualifying service w.e.f. 1/8/89 to the post of Postal Assistant Cadre.

3. After quashing of the penalty order imposed on the Applicant, the Applicant vide his letter dt. 19/9/91 made representation to the Competent Authority seeking One Time Bound Promotion w.e.f. 30/11/83 instead of 1/8/89. The respondents after considering his representation passed an order dt. 29/1/92 stating that his representation was duly considered that due to unsatisfactory record of service his request for promotion from 83 onwards could not be acceded to. Accordingly the same was rejected.

4. It may be recalled that the Applicant had completed 16 years service in 1977, However, since the scheme of One Time Bound Promotion has come into force from 83 onwards, he is seeking promotion from that date which is otherwise due to him. The respondents in their reply at para-4, have conceded that as per service record the Applicant has completed 16 years of service in the year 1983 and was due for promotion. At the same time, it is not disputed that he has completed 16 years service in 1977. It is also stated due to unsatisfactory service record, his case could not be recommended to the DPC. Therefore his case was not recommended to the DPC in 1983.

5. It is also stated at para-13, the applicant is undergoing major punishment case during the said period which resulted into punishment in the year 1987. Therefore, it cannot be said that the applicant had clean service record, in absence of the said punishment orders of stoppage of increments. Period of Punishment was over in the year 1989 and therefore, the applicant was entitled under the relevant rules, for promotion from the year 1989 only and was given benefits of promotion from the date of expiry of his punishment. Accordingly he was promoted.

6. The Learned Counsel for the Applicant submitted that


consequent upon the quashing of the punishment order by the Competent Authorities in the year 1989 and he has completed 16 years of service in the year 1977, he ought to have been promoted in One Time Bound Promotion scheme in 1983 itself. In this connection, the respondents is required to peruse the records upto 1977 so as to count the period of 16 years and any punishment imposed thereafter shall not be taken into account for the purpose of promotion.

7. In the light of the above, the Respondents^{are} directed to consider the Confidential Reports of the Applicant upto 1977, at which point he has completed 16 years in service and if they find him suitable for promotion, they are liable to give promotion to the Applicant w.e.f. 30/11/83.

8. The Learned Counsel for Applicant refers to a Mr.V.P.Dhaneshwar V/s. Union of India and others in OA 170/93 and others disposed of by/tribunal on 21/2/95 ^{this} wherein the tribunal directed the respondents to conduct a Review DPC and shall consider whether the employee concerned had rendered 26 years satisfactory service irrespective of whether the date fell before or after the scheme came into effect i.e. before 1/10/91, the Review DPC shall consider the records of the service of the Applicant only for those 26 years and determine the eligibility of the Applicant for being granted the benefit of the Biennial Cadre Review on that basis, etc.

9. Accordingly, the respondents are directed to consider the service records of the Applicant till 1977 and if they find him suitable for further promotion and the same shall be granted w.e.f. 30/11/83. OA is disposed of with the above direction. No order as to costs.


(M.R. KOLHATKAR)
M(A)


(B.S. HEGDE)
M(J)