

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

Date of Decision: 03.8.93.

TA 2322/86
(CS 446/85)

GOPAL LAL ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON. MR. GOPAL KRISHNA, MEMBER (J).
HON. MR. O.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI R.C. GAUR.

For the Respondents ... SHRI K.N. SHRIMAL.

PER HON. MR. O.P. SHARMA, MEMBER (A).

The plaintiff Gopal Lal (hereinafter referred to as the applicant) filed a civil suit in the court of learned Munsif, North, Kota, on 10.5.85, praying for a declaration that the applicant is entitled to promotion to supervisory post and that he should be declared to be entitled to the same and further, that he should be declared as senior to respondents No.4 and 5. He has also prayed that the letter dated 24.11.84, by which his juniors have been given supervisory allowance, may be declared illegal. He has also prayed that after being given promotion, he should be given all the consequential benefits thereof.

.....2.

2. The factual position is that the applicant had been holding the post of LSG since 11.5.80. His willingness was asked for on 3.10.84 for holding the post of Assistant Sub Postmaster, which carried a supervisory allowance of Rs.35/- p.m. He gave his willingness but was not granted the supervisory allowance attaching to the said higher post. By order dated 24.11.84, his juniors were given supervisory allowance. The applicant is aggrieved by the said order dated 24.11.84, by which his juniors have been granted the supervisory allowance and he has not been granted the same.

3. Mr. K.N. Shrimal, the learned counsel for the respondents, has taken a preliminary objection to the suit/application on the ground that the impugned order dated 24.11.84 has not been filed alongwith the suit/application. In this connection, he has cited an authority reported in AIR 1986 SC 2166 (Surendra Singh Vs. Central Govt. & others). He has, therefore, stated that in the absence of the copy of the impugned order having been filed, the applicant is not entitled to any relief. He has also stated that the applicant was on leave from 9.1.84 to 28.10.84. Further, departmental proceedings were also pending against him during the period in question. Therefore, he could not be granted the supervisory allowance, claimed by him.

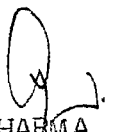
4. We have heard the learned counsel for the parties and have also perused the records. It is an admitted position that the supervisory allowance was not granted to the applicant on 24.11.84. Instead it was granted to his juniors ^{on that date}.

and it was granted to him on 25.6.85. Regardless of whether the impugned order dated 24.11.84 is to be quashed or not, the applicant would ordinarily be entitled to supervisory allowance from the date on which it was granted to his juniors, unless there were good reasons for refusing the same to him. The applicant returned from leave on 28.10.84 whereas the supervisory allowance was given to his juniors from 24.11.84. Therefore, his absence on leave for a prior period was not a material consideration in this regard. Further, no particulars of the departmental enquiry pending against the applicant have been given in the reply of the respondents. Mr. Shrimal has pointed out that eventually a minor penalty was imposed on the applicant, but it was in 1988. The respondents themselves have given ~~the~~ supervisory allowance to the applicant on 25.6.85. This only shows that no such departmental enquiry could have come in the way of his being given supervisory allowance from the earlier date namely 24.11.84. Mr. Shrimal has not been able to show us that the departmental enquiry pending in 1984-85 was different from the one which culminated ^{in the} ~~him~~ imposition of a penalty in 1988. Therefore, we are not persuaded ^{that} ~~with~~ the denial of supervisory allowance to him was on account of any departmental enquiry pending against him in 1984 or 1985.

5. In the circumstances, we find that the applicant has been unjustly denied the grant of supervisory allowance for the period from 24.11.84 to 25.6.85. The respondents are directed to grant the same to the applicant by paying

him arrears within a period of four months from the date of receipt of this order.

6. The TA stands disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
MEMBER (J).