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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 517/95

DATE OF ORDER : 05-11-1997.

Between :-

K.Sahadevudu

... Applicant

And

Union of India - Rep. by

1. The Director General,
Department of Posts, New Delhi.
2. The Chief Post Master General,
AP Circle, Hyderabad.
3. The Sr. Supdt. of Post Offices,
Vijayawada Division, Vijayawada.
4. The Sr. Post Master, Vijayawada
HO, Vijayawada.

... Respondents

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Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri N.V.Raghava Reddy, CGSC

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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Heard Sri D.Subrahmanyam, for Sri KSR Anjaneyulu, counsel for the applicant and Sri N.V.Raghava Reddy, standing counsel for the respondents.

2. The applicant herein entered the service in the Postal Department as a Clerk in 1966. He appeared for the LSG Grade examination for 1/3rd quota of vacancies for the year 1977-78 held on 10-12-78 and the results were announced as per the SSPOs Vijayawada letter No.B-3/LSG/Ex/78 dt.26-5-1979 (Annexure-II to the OA. He passed the examination. However, the applicant was not absorbed in the LSG cadre during the year 1978.

3. The respondents conducted LSG Examination under 1/3rd again in 1979-80 and it is submitted that five officials of Vijayawada Division also appeared in the examination. Two officials out of five Vijayawada Division candidates were selected for posting in PMG Office, AP Circle, vide letter dt.5-9-93 communicated by Superintendent of Post Offices by letter dt.8-9-93.

4. Aggrieved by the promotions of the officials who passed the LSG Examination subsequent to the applicant, the applicant submitted his representation stating that he had qualified for promotion of LSG in the year 1977-78 but he was not promoted to LSG Grade whereas two officials who passed LSG Examination subsequent to the applicant was appointed to LSG cadre during 1983. The applicant further states that he was put to injustice and financial loss. Sr.Superintendent of Post Offices, Vijayawada in letter dt.18-6- (Annexure-VII page-16 to the OA) stated after 1977 the rules of LSG Examination were changed and the vacancies should be filled in

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of seniority and the officials once qualified need not appear again and the names of officials are included in the panel of the subsequent years along with the officials qualified in the subsequent examination. It was also stated that the applicant was junior and he could not be selected till the TBOP scheme was introduced.

5. Hence he has filed this OA to call for the records connected with the case and declare the order of the Director General of Posts, New Delhi in his letter No. 44-9/94 SPB II, dt. 21-3-94 communicated in Sr. Post Masters letter Be/PF/KS dt. 18-4-94 rejecting the claim of the applicant to give him promotion against 1/3rd quota of LSG over and above the officials who passed the examination in subsequent years as arbitrary, untenable and illegal and set aside the same.

6. The Respondents have filed a counter contending that from 1977 onwards the rules were changed and that therefore the applicant has to be appointed along with the candidates who qualified during the subsequent LSG Examination on the basis of seniority in Clerk Grade.

7. The learned counsel for the applicant in support of his contention ~~states~~ that the eligible candidates have to be appointed against the vacancy of 1978 or in a carry forward vacancy relied upon the decision of the Hon'ble High Court of Kerala. In K.J.Joseph & others Vs. The Director, Postal Services (Head Quarters), Trivandrum & others OPNo. 229/81-E the Hon'ble High Court of Kerala (decided on 15-2-83). He also relied upon the Full Bench decision of this Tribunal rendered in Udai Shankar Meena Vs. Union of India & others (1997) 35 ATC 22 (FB). In the case cited ^{the Hon'ble High Court of Kerala L} xxx xxx xxx xxx xxx xxx

the full bench considered Rule 272-A of the P&T Manual (Vol.IV) and the Full Bench in para-11 observed as follows :-

"11. In view of the reasons above mentioned, the contention of the applicant appears to have force and after having been declared successful in the qualifying examination for the year 1978, he should have been absorbed against the vacancies of that year or against carry forward vacancies considering his seniority amongst the candidates passing the qualifying examination in 1978 with him and not on the basis of his seniority among the qualified candidates of the subsequent years. This is also seems to be in accordance with the spirit of Rule 272-A which stipulates that if any official already in the panel has not been absorbed during the year, he will be absorbed first in the vacancies of the next year and the vacancies of the next year and the vacancies for the year would be correspondingly reduced by the number of officials brought forward. Furthermore, prudence requires that it would be neither just and fair nor equitable to unsettle the position which has held the field since 1989 onwards after the decision of Allahabad Bench in K.S.Pande case. We are, therefore, in respectful agreement with the views expressed by the Allahabad Bench of the Tribunal that for the purpose of promotion against 1/3 selection quota, seniority amongst the ~~successful~~ candidates of that year alone should be the basis."

In view of the decision of the Hon'ble High Court of Kerala and also the Full Bench case, the applicant must be appointed against LSG Examination passed in the year 1978 and he should be shown senior to those persons passed LSG Examination subsequently. Hence the order dt.18-4-94 is ^{to} ~~to~~ be set aside.

8. The learned counsel for the ~~respondents~~ submits that the candidates who passed in LSG Examination and given seniority above the applicant, due to the clarification issued to the Rule-272-A in 1977, ^{ve} had not been included as parties ^{to} in this OA and hence the

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applicant cannot get the relief as prayed for in this O.A.

9. The applicant has already submitted a representation in this connection but the department failed to reply him suitably. We also find that similar position existed in the case filed in the High Court of Kerala where the affected seniors were not impleaded but the Kerala High Court had given the relief to the applicant therein presumably because of the fact that the department failed to observe the rules in this connection. On that basis the Hon'ble High Court of Kerala held that inspite of not impleading seniors in the O.P., the applicant in that O.P. was liable to get the relief as prayed for in that O.P. The same view has been taken in this O.A. also and none including the seniors should not stand in the way of the applicant to get the relief as prayed for in this O.A.

10. Hence we pass the following order :-

- (a) The order dt.18-4-94 passed by the Sr.Post Master (Annexure A-1) is hereby set aside;
- (b) The applicant shall be given LSG post on the basis of the examination conducted in the year 1978 and he should be shown senior to the candidates who passed the examination in the subsequent years.

11. The applicant relied on the judgement of the High Court of Kerala, which was passed in the year 1983. Though he submits that he was repeatedly submitting representations, he approached this Tribunal only in the year 1995. Hence it has to be held that he has approached the Tribunal belatedly. Hence his pay in the cadre of LSG should be fixed on par with his junior as directed above, notionally, but he is entitled for monetary benefits from the date, one year prior to the filing of this O.A. i.e. 17-4-94. The date of filing this OA is 17.4.

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12. Original Application ordered accordingly. No order
as to costs.

B.S.JAI

(B.S.JAI-PARAMESHWAR)
Member (J)

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R. RANGARAJAN

(R. RANGARAJAN)
Member (A)

D.R.

Dated: 5th November, 1997.
Dictated in Open Court.

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D.R.

YOA.517/95

Copy to:-

1. The Director General, Department of Posts, New Delhi.
2. The Chief Post Master General, A.P. Circle, Hyderabad.
3. The Senior Supdt. of Post Offices, Vijayawada Division, Vijayawada.
4. The Senior Post Master, Vijayawada HO, Vijayawada.
5. One copy to Mr. K.S.R. Anjaneyulu, Advocate, CAT., Hyd.
6. One copy to Mr. N.V. Raghava Reddy, CGSC., CAT., Hyd.
7. One copy to BSJP M(J), CAT., Hyd.
8. One copy to D.R.(A), CAT., Hyd.
9. One duplicate copy.

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