

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

11

O.A. No. 479/94
T.A. No.

199

DATE OF DECISION 25.02.2000

Panchoo Ram Sharma

Petitioner

± Mr. R.P. Pareek

Advocate for the Petitioner (s)

Versus

Union of India and ors.

Respondent

Mr. Asgar Khan proxy counsel to
Mr. M.Rafiq

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

The Hon'ble Mr. N.P.NAWANI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? yes
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(N.P.NAWANI)

Adm.Member

(S.K.AGARWAL)

Judl.Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 25/02/2000

(12)

OA No.479/94

Panchoo Ram Sharma S/o Shri Prabhu Lal Sharma, SPM, Didwana (Lalsot).

.. Applicant

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur -7.
3. The Superintendent of Post Offices, Jaipur (MFC), Shastri Nagar, Jaipur.

.. Respondents

Mr. R.P.Pareek, counsel for the applicant

Mr. Asgar Khan, Proxy counsel to Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

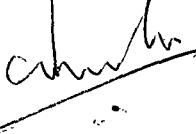
Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this application, the applicant prays for a direction to be issued to the respondents to grant him promotion under BCR scheme w.e.f. 4.6.1992 with all consequential benefits. It is also prayed that sub-para VIII of para 2 of Ann.A2, being discriminative be declared null and void to the extent relating to period 1.1.1992 to 31.12.1993 and the incumbents awaiting promotion are required to be given on the day they complete their service of 26 years.

2. The facts of the case, as stated by the applicant, are that he was appointed as Time Scale Postal Assistant on 4.6.1966. After completion of 26 years satisfactory service, he was entitled for higher



grade HSG II under Biennial Cadre Review (for short BCR) scheme (Ann.A2). On the day of applicant's eligibility i.e. 3.6.1992 there was nothing adverse was communicated to him which could have obstructed his promotion. The applicant was served with a charge-sheet on 18.6.1992 i.e. after he had completed 26 years of service which could not have any effect on his past service rendered blotlessly. However, it resulted in stoppage of further increments for two years without cumulative effect but it came to be reduced to one year on appeal. Aggrieved on account of benefit of BCR scheme not being given to him, the applicant made a representation to respondent No.2 (Ann.A3) and was informed by the impugned letter dated 30.5.1994 (Ann.A1) that his case was considered by the DPC held on 30.9.1992 and two more occasions but he was not found fit on all three occasions on the basis of his overall record of service.

3. The respondents have filed a reply. It has been stated that criteria for promotion under BCR scheme is not only completion of 26 years of service but satisfactory service records. It has also been stated that BCR for eligible employees covering the period from 1.1.92 to 31.12.93 who had completed 26 years of service on 1.7.1992, 1.1.93 and 1.7.1993 was conducted. The overall assessment is done on the basis of confidential records. The entire CR files for 5 years of the applicant were put up before the DPC, which after careful consideration did not find the record of service of the applicant unblemished as such he was not recommended by the DPC for promotion. In this regard Ann.R1 to R3 have been filed by the respondents.

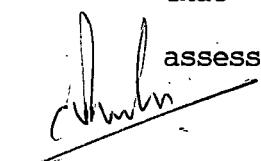
4. We have heard the learned counsel for the parties and have also perused the records.

5.

With regard to the applicant's prayer for quashing of sub-para

VIII of para 2 of Ann.A2, which is the scheme of BCR issued by D.G. Posts on 11.10.1991 for the period 1.1.1992 to 31.12.1993, we find that no action of the respondents indicates any legal flaw in this provision. They held the BCR for eligible employees covering the period from 1.1.92 to 31.12.1993 on 1.7.1992, 1.1.1993 and 1.7.1993. They were required by this provision to work out the number of posts required to be upgraded to provide promotions on the said dates and the applicant has not shown in any way that the respondents did not do this exercise. In any case, he was not denied the promotion due to lack of a post. In view of this, we find no reasons to quash the said provision of the scheme.

6. The controversy in this case really lies in the narrow field which is whether the DPC was right in finding the applicant unfit for promotion under BCR scheme when it based such assessment on the record (confidential record) of the applicant for the last 5 years as indicated in the impugned reply to the representation of the applicant (Ann.A2). The criteria for promotion as per para 2 (iv) of the BCR scheme is "eligibility of 26 years of satisfactory service." The applicant has claimed that he was not communicated any adverse remarks during the relevant period. The respondents have not denied this nor have they produced any records/documents that could establish that the applicant has not rendered satisfactory service. Although the respondents have not stated that the applicant was not found 'fit' by the DPC because on a charge-sheet issued against him admittedly after the date of his having completed 26 years of service and award of the punishment of stoppage of one increment without cumulative effect, even if it is assumed that it was so, the assertion of DPC could be faulted on two counts. Firstly, on the relevant date, even the charge-sheet was not issued against him and secondly, even if the DPC felt that the punishment awarded to the applicant was one warranting his assessment as 'unfit', it should have adopted the sealed cover procedure.

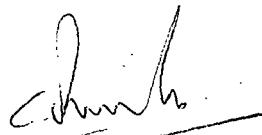


In any case, the penalty of stopping of increment cannot constitute a bar to the promotion of the official, provided on the basis of overall assessment of his record of service, the DPC recommends his promotion to the next higher grade. In this respect, our attention was drawn to the decision dated 26.5.1997 of the Allahabad Bench of this Tribunal in OA No. 1724 of 1993 in which it has been held, on the basis of DG, P&T's letter dated 19.5.1994, that stoppage of increment will not affect promotion.

7. In view of the above discussed position, the OA succeeds to the extent that the applicant should be treated as having been promoted to the Higher Selection Grade-II with effect from 4.6.1992 with all consequential benefits and the impugned letter dated 30.5.1994 (Ann.A1) is set-aside and quashed.

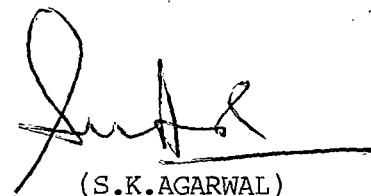
8. The OA is accordingly accepted with the direction to the respondents to treat the applicant as having been promoted under the BCR scheme to the Higher Selection Grade-II w.e.f. 4.6.1992 when he completed 26 years of service with all consequential benefits.

9. Parties to bear their own costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl. Member