

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

16.2.2001

Date of Order : 16.2.2001

O.A.NO. 509/1995

Gopal Prasad Sharma S/o Shri Kunjilal aged about 63 years, R/o 27, Jaghina Bagh, Bharatpur, and Ex.Postmaster, Head Post Office, Gangapur, Dist.Sawai Madhopur (Rajasthan) 322 001.

.....Applicant.

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi. -
2. Chief Postmaster General, Rajasthan Circle, Jaipur 302 007.
3. Director Postal Services, Jaipur Region, Jaipur - 302 007.
4. Superintendent of Post Offices, Sawai Madhopur Division, Sawai Madhopur 322 001 (Rajasthan).
5. Bhajan Lal Gupta, Postmaster, Bharatpur, 321 001.
6. Devi Sahai Gupta, Postmaster, Alwar, 301 001.

.....Respondents.

Mr. K.L.Thawani, counsel for the applicant.
None is present for the respondents.

CORAM :

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

PER MR.JUSTICE B.S.RAIKOTE :

the applicant, who has retired in the year 1990, has filed

this application in the year 1995 contending that applicant was entitled for the pay and allowances of the Lower Selection Grade w.e.f. 1.6.1974 and he was also accordingly entitled to the promotion to the Higher Selection Grade II and Higher Selection Grade I, from the date his juniors respondents No. 5 and 6, were granted promotion. It is to be seen at the stage itself that respondents No. 5 and 6 were promoted in the year 1974 vide Annex.A/5 to Highly Skilled Grade II whereas, the applicant was promoted to the said Grade of Highly Skilled ~~vide Annex.A/8~~ in 1979.

2. The contention of the applicant is that the respondents No. 5 and 6, were juniors to him, therefore, he is entitled to promotion with effect from the date they were promoted to Higher Selection Grade II and thereafter Higher Selection Grade I and accordingly, there should be a direction. The applicant submits that in pursuance of the direction issued in his earlier O.A. No. 36 of 1991 vide order dated 8.12.1994 of this Tribunal, the respondents, no doubt, have issued order Annex.A/1 rejecting his claim, but the same is illegal and is liable to be quashed and an appropriate direction as prayed for, may kindly be issued.

3. By filing counter, the respondents No. 1 to 4 have denied the case of the applicant. They have stated that the respondents No. 5 and 6, though juniors to the applicant, were promoted to the Highly Skilled Grade II much earlier to the applicant and those promotion orders have become final and as such, the applicant would not be entitled to any relief. They have also stated that respondents No. 5 and 6 having passed the accounts examination in terms of Rule 276-A(a) of Post and Telegraph Manual Vol.4 (for short 'P&T Manual'), they were entitled to promotion as Assistant Accountants in the Lower Selection Grade in preference to their seniors in the general gradation list and accordingly, they were promoted much prior to the applicant. The applicant did not pass any accounts examination in terms of the said

Rule 276-A (a), therefore, the applicant cannot make any grievance regarding their promotion as Assistant Accountants after passing the necessary accounts examination. They have also stated that the respondents No. 5 and 6 were promoted in the year 1974 as Accounts Assistants after passing the examination. Though, the applicant was promoted in the year 1979 as Lower Selection Grade II yet he has been given the notional seniority and promotion w.e.f. 1.6.1974 in the Lower Selection Cadre, but no pay and arrears were given to him w.e.f. 1.6.1974. They have also stated that the applicant was given Selection Grade II in the year 1989 on the basis of his seniority in the Lower Selection Grade. Since the respondents No. 5 and 6 were already seniors to him having been promoted earlier Selection Grade II, they were further promoted to Selection Grade I but the applicant is not entitled to any relief at par with the private respondents No. 5 and 6. Accordingly, they sought for dismissal of this O.A.

4. Heard.

5. The fact that the respondents No. 5 and 6 were juniors to the applicant is not disputed. The fact that the respondents No. 5 and 6 passed the accounts examination in terms of Rule 276-A (a) of the P&T Manual, is also not disputed. It is also not in dispute that the applicant did not pass the said accounts examination in terms of the said rule. If that is so, the applicant cannot make grievance regarding the promotions of the respondents No. 5 and 6 earlier to him in terms of Rule 276-A (a). It is not in dispute that, earlier the applicant and the respondents No. 5 and 6 belonged to the common line and accordingly, the seniority list of the general line was prepared. ~~earlier~~ According to such gradation list, the respondents No. 5 and 6 were juniors to the applicant, but in our considered opinion, passing of the accounts examination in terms of the said Rule 276-A (a), tilted the balance in favour of respondents No. 5 and 6, as against the

applicant, did not chose to take such accounts examination in terms of Rule 276-A (a). At this juncture, we think it appropriate to extract the said Rule 276-A (a) of the P&T Manual which reads as under : -

"276-A(a). Officials on the ordinary clerical time-scale of pay, who have passed the Accountant's examination, will be eligible for appointment to posts of accountants or assistant accountants in the lower selection grade on Rs. 160-10-250, in preference to their seniors in the general gradation list, who have not passed the Accountant's examination even though such seniors may have passed the old lowest selection grade examination. Such appointments will normally be made in order of seniority but the appointing authority may, in his discretion pass over any senior official whom he does not consider fit for such promotion.

(b) Promotion to posts of Accountants in the Higher Selection Grade of Rs. 250-15-325 (old scale Rs. 250-20-350) will be made from officials in the Lower Selection Grade who have passed the Accountants Examination and have, after passing the examination, worked as Accountant or Assistant for atleast three years in that capacity. Such promotions will normally be made in order of seniority, but the appointing authority may, in his discretion, pass over any senior official whom he does not consider fit for such promotion. The appointment to these posts will be made alternately from the line of Inspectors and from the general line. This arrangement, will not, however, interfere with the promotion to the Higher Selection Grade of men holding on 24th January, 1930, posts in the Lower Selection Grade and employed on work connected with accounts, if they are considered fit for such promotion."

6. From the reading of Clause (a) of the above rule, it is clear that the officials on the ordinary clerical time scale, who passed the accountant's examination were entitled to be promoted to the post of Accountants or Assistant Accountants in the Lower Selection GRAde at Rs. 160-250 "in preference to their seniors in the general gradation list, who have not passed the Accountant's examination". Since in terms of the above rule, respondents No. 5 and 6 passed the said Accountant's examination and the applicant did not take that examination at all, the respondents No. 5 and 6 were promoted to the post of Accountants earlier to the applicant. Under Clause (b) of the said rule, such persons posted as Accountants were entitled to be promoted to the higher selection grade in Rs. 250-325 from the lower selection grade, who have passed the accountant's examination and who

have worked atleast three years in that capacity. It is stated that this particular post of Accountant's contemplated in rule 276-A(a) and (b), has subsequently become a difunct cadre. The fact remained that respondents No. 5 and 6 were promoted to the said post of Accountant in the higher selection grade-II prior to the applicant and they became seniors to the applicant. Thereafter, according to their seniority in the promotional post, they were further promoted to the higher selection grade I and consequently, the applicant lost his seniority as well as parity with respondents No. 5 and 6. Since the applicant did not pass the examination in terms of rule 276-A (a) referred to above and the respondents No. 5 and 6 were rightly promoted to the next cadre earlier to him, and accordingly the private respondents No. 5 and 6 were further rightly promoted from the post of Selection Grade-II to Selection Grade I thereafter. It is brought to our notice that in view of the law laid down by Hon'ble the Supreme Court, the applicant has been given his notional promotion w.e.f. 1.1.1974 and also the seniority with effect from that date, hence, applicant should be satisfied with the same. In the circumstances narrated above, the applicant is not entitled to any relief claiming parity with the respondents No. 5 and 6, as stated above. Accordingly, we pass the order as under :-

The Application is dismissed but in the circumstances without costs.

Gopal Singh
(Gopal Singh)
Adm.Member

B.S.Raikote
(B.S.Raikote)
Vice Chairman

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mehta.