

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH:JAIPUR

.....

Original Application Number : 324 of 1998

Date of Decision : This is the 5th day of July, 2002.

.....

The Hon'ble Mr. A.P. Nagrath, Administrative Member

The Hon'ble Mr. J.K. Kaushik, Judicial Member

.....

Vijay Singh Dharwal S/o Shri Ram Dayal
Aged about 54 years, By Caste Somvanshi,
H.S. G.-II, P.A. Alwar Head Office,
Resident of Mohalla Mehtab Singh Ka Nohra,
Alwar.

.....Applicant.

By Advocate Shri Y.C. Joshi.

versus

1. Union of India through its Secretary,
Ministry of Communication,
Department of Posts,
Dak Tar Bhawan,
New Delhi - 1.

2. Chief Post Master General,
Postal Services, Rajasthan Circle,
Jaipur.

3. Sr. Superintendent of Post Office,
Alwar Division, Alwar.

.....Respondents.

By Advocate Shri Arun Chaturvedi.

.....



...2.

O R D E R

Per Mr. A.P. Nagrath, Administrative Member :

In this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for the following reliefs :-

- "i) That the Hon'ble Tribunal be pleased to allow this O.A. with costs including reserved cost of Rs. 5000/-.
- ii) Through an appropriate Writ of Mandamus and Certiorari, order or direction command the respondent to revise the seniority of the applicant over and above the reserved category candidate who were junior in 1974 to the applicant, who were promoted earlier in the year 1974 under 20% upgradation scheme to LSG Cadre;
- iii) Through an appropriate Writ, Order or Direction command the respondent to promote the applicant retrospectively since 1974 in the channel of promotion as LSG, HSG-II & HSG-I for the post meant for General Category candidate which has been illegally given and usurped by the reserved category candidate due to wrong policy 1974 implemented by the respondents beyond limits of their respective quota;
- iv) Alternatively, through an appropriate Writ, Order or Direction command the respondent to step up the pay and emoluments of the applicant with retrospective operation from the year 1983 when the applicant was promoted LSG and regained his seniority qua the reserved category candidates who were earlier promoted to the LSG cadre in 1974 in 20% upgradation scheme and consequential promotion in HSG-II and HSG-I when his junior reserved category candidates were promoted
- v) Any Writ, Order or Direction, in the facts and circumstances of the case, deemed just and equitable by the Hon'ble Tribunal may kindly be passed in favour of the applicant."

2. It is seen from the above that applicant is seeking promotion w.e.f. 1974 to LSG while he was actually promoted in the year 1983. It is apparent, on the very face of it, this



application is hopelessly barred by time. The relief is being claimed after a period of almost 24 years from the date when the applicant claims the cause arose in his favour. It also relates to the period much before a period of three years before setting up of the Central Administrative Tribunal. The learned counsel for the applicant submitted that applicant was foregoing the claim in respect of his retrospective promotion and was confining his prayer to the relief under para (ii) above which is revision of the seniority over and above the reserved candidates who were juniors to him in 1974. The basis for claiming the seniority is, the law laid down by the Apex Court in Ajit Singh Januja-II and Jatinder Pal Singh's case, the two ~~recently~~ celebrated cases under which the Apex Court had the occasion to interpret and lay down the law in respect of reservation in employment. No seniority list has been brought on record by the applicant to support his contention that his seniority is not being revised as per law. Even otherwise, the learned counsel admitted that there has been a further change after the pronouncements of the Apex Court in the two cases cited supra and an amendment in the Article 16 of the Constitution, has been incorporated whereby the seniority assigned to Scheduled Castes/Scheduled Tribes and Other Back Ward Classes candidates prior to the judgement of the Hon'ble Supreme in the two cases above, will stand restored.

3. In view of the circumstances and the development as stated above, there is no case made out by the applicant which would call for our interference or which would impel us to issue any direction to the respondents.

4. In so far as the claim for retrospective promotion is



concerned, the same is hopelessly barred by limitation. As noted by us above, the learned counsel appearing on behalf of the applicant has already stated that the applicant is foregoing that claim. In respect of the seniority, nothing has been brought before us by the applicant to suggest that the same is not as per law.

5. The applicant has failed to make out any case in his favour and this O.A. is accordingly dismissed with no order as to costs.

Agree/81
(J.K.Kaushik)

Judl. Member

Agree
(A.P. Nagrath)
Adm. Member

.....

mehta