

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 27.2.2001

OA 184/99

Madanlal Chejara, Postal Assistant, Head Post Office,  
Jhunjhunu.

... Applicant

Versus

1. Union of India through Secretary, Deptt. of Posts,  
Ministry of Communications, New Delhi.
2. Postmaster General, Rajasthan Western Region,  
Jodhpur.
3. Director Postal Services, Rajasthan western Region,  
Jodhpur.
4. Supdt. of Post Offices, Jhunjhunu division, Jhunjhunu.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.K.L.Thawani

For the Respondents ... Mr.Hemant Gupta, proxy counsel  
for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, applicant makes prayer to quash and set aside the impugned order dated 20.8.98 (Ann.A/1) and to direct the respondents to consider him for promotion to HSG-II under BCR Scheme w.e.f. 1.1.98.

2. The applicant was initially appointed as Postal Clerk w.e.f. 2.12.71 and he was promoted as LDC on completion of 16 years of service under OTBP Scheme. It is stated that applicant has completed 26 years of service on 2.12.97 and he is entitled to promotion to HSG-II under BCR scheme w.e.f. 2.12.97. It is also stated that the Superintendent of Post Offices, Jhunjhunu, has passed an order on 8.5.98 giving such promotion to certain other officials w.e.f. 1.1.98 but the applicant was denied the

said promotion on the ground that some disciplinary case is pending against him. It is stated that neither any disciplinary case was pending nor any penalty was current against the applicant till 31.12.97. Therefore, denial of promotion to the applicant after completion of 26 years of satisfactory service is illegal, arbitrary and in violation of Articles 14 and 16 of the Constitution of India. Therefore, the applicant has filed this OA for the relief as above.

3. Reply was filed. In the reply it is denied that there was any arbitrariness on the part of respondents and it is stated that disciplinary case against the applicant was contemplated on 20.4.98, prior to the date of promotion i.e. 8.5.98. Therefore, the applicant was rightly denied promotion to HSG-II.

4. Heard the learned counsel for the parties and also perused the whole record.

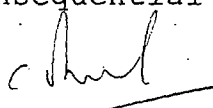
5. The learned counsel for the applicant submits that OA No.5/96, V.C. Tahiliani V/s Union of India & Ors, was decided by this Bench of the Tribunal on 13.2.2001 and identical question was involved in that case and the Tribunal has taken a view that the charge-sheet was issued much after the date of implementation of BCR Scheme. Therefore, the OA was allowed and directions were given to the respondents to consider the case of the applicant for grant of benefit under the BCR Scheme w.e.f. 1.10.91 with all consequential benefits. The learned counsel for the applicant submits that case of the present applicant is also squarely covered by the decision of this Tribunal as mentioned above.

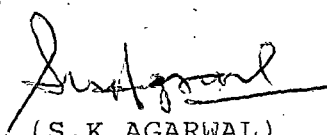
6. Admittedly, the applicant was denied promotion w.e.f. 1.1.98 on the ground that some disciplinary case was contemplated against him prior to the date of his actual promotion. It is admitted by the respondent department in the reply that a disciplinary case under Rule 16 of the CCS (CCA) Rules, 1965 was contemplated against the applicant on

*Signature*

20.4.98, therefore, the applicant was entitled to be considered for promotion under the BCR Scheme w.e.f. 1.1.98, after completion of 26 years of satisfactory service as it is clear from the record that the applicant was eligible for consideration for promotion under BCR scheme w.e.f. 1.1.98 and on this date no disciplinary case/proceedings were pending against him, therefore, we are of the considered opinion that the applicant was entitled to be considered for the benefit of BCR Scheme w.e.f. 1.1.98.

7. Accordingly, the OA is allowed and the respondents are directed to consider the case of the applicant for grant of benefit under BCR Scheme w.e.f. 1.1.98 with all consequential benefits. No order as to costs.

  
(N.P. NAWANI)  
MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)