

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 07.01.2004

Original Application Nos. 273/2003, 303/2003 & 441/2003.

1. B. S. Sinsinwar S/o Shri Gyasi Ram by Cast Sinsinwar, aged about 59 years, resident of C-22, Krishnapuri, Hatwara Road, Jaipur presently working as LSG (Supervisor) in the parcel sorting set/2R.M.S. Office, Jaipur.

Applicant in OA No. 273/2003.

2. Suresh Chandra Sharma S/o Shri Mool Chand Sharma by cast Sharma aged about 57 years, resident of Signal Moholla, Bandikui presently working as HSA O/o Railway Mail Service, Bandikui.

Applicant in OA No. 303/2003.

3. Raja Ram Gupta S/o Shri Ram Chandra Gupta by cast Gupta, aged about 58 years, resident of 26, Radha Rani Marg, Furohitpara, Brampuri, Jaipur, presently working as a Supervisor O/o Railway Mail Service, Jaipur.

Applicant in OA No. 441/2003.

v e r s u s

1. Union of India, through the Secretary to the Govt, of India, Department of Posts, Dak Bhawan, Sansad marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur-7.
3. Senior Supdt. Railway Mail Service JP Dn. Jaipur, Opp. Radio Station, M.I. Road, Jaipur-I.

Respondents in all the three OAs.

Mr. P. N. Jatti counsel for the applicant in all the OAs.
Mr. N. C. Goyal counsel for the respondents in all the OAs.

CORAM

Hon'ble Mr. R. K. Upadhyaya, Administrative Member.
Hon'ble Mr. Bharat Bhushan, Judicial Member.

: O R D E R :

(per Hon'ble Mr. R. K. Upadhyaya)

The issue involved in all the three OAs (OA No. 273/2003, 303/2003 & 441/2003) being almost identical, these OAs are disposed of by a consolidated order for seek of convenience.

In OA NO. 273/2003, applicant Shri B. S. Sinsinwar has claimed that office order dated 12.06.2003 (Annexure A-1) stating that the applicant's name could not find place in the select panel and also office memorandum dated 09.06.2003 containing list of Postal Assistants/Sorting Assistant found eligible for promotion to LSG Post be quashed. It has also been stated in this OA that the applicant has been transferred and posted as LSG Supervisor, Jaipur RMS vide order dated 29.08.2000 (Annexure A-8), therefore, the same be treated as final promotion order.

In OA No. 303/2003, the applicant Shri Suresh Chandra Sharma has also challenged the letter dated 12.06.2003 (Annexure A-1) which enclosed the name of the applicant having been found unfit for placement in the select panel. He has also challenged the order dated 09.06.2003 (Annexure A-2), by which certain Postal Assistants/Sorting Assistants have been found suitable for promotion to the post of LSG. The applicant has also stated that the transfer and the posting order dated 06.05.1999 (Annexure A-8) be treated as final promotion order to the LSG HSA post.

Similarly in OA No. 441/2003, the applicant Shri Raja Ram Gupta has challenged the order dated 12.06.2003 communicating the name of the applicant having been included in the list of Postal Assistants/Sorting Assistants found unfit for promotion to the LSG post. He has also challenged the memorandum dated 09.06.2003 (Annexure A-2) communicating the list of Postal Assistants/Sorting Assistants found suitable for promotion to the LSG post. The applicant has claimed that he has been working on the post of LSG HSG-II/HSG-I for very long period, therefore, he should be treated to have been promoted to the higher post.

2. The three applicants joined the respondents department from the dates mentioned against their name.

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| 1. Shri B. S. Sinsinwar | 04.01.1966 |
| 2. Shri Suresh Chandra Sharma | 17.10.1965 |
| 3. Shri Raja Ram Gupta | 16.01.1966 |

Since there was a lot of stagnations in the clerical cadres of the respondents department, therefore, the government issued Time Bound One Promotion Scheme as per DGPST, New Delhi, letter dated 17.12.1983. According to this scheme, it was decided to give one ^{financial upgradation} promotion to the officials who completed 16 years of service in a particular grade without any promotion to any higher grade. Subsequently, Government of India DGPST vide their memorandum dated 11.10.1991 and 01.11.1991 issued instructions regarding Biennial Cadre Review of Group-C and D staff in the Postal Department. This was with a view to allow the staff to get ^{financial upgradation} second promotion on completion of 26 years of service taken together with service rendered in the scale of pay of time bound promotion after 16 years of service.

3. The case of the applicants is that they have been given one time bound promotion on completion of 16 years of service and second financial upgradation on completion of 26 years of service. Learned counsel for the applicant stated that they have discharged their duties without any blemish for long years, therefore, they should be treated to have been regularly promoted to higher posts of LSG/HSG-II/HSG-I. It is further stated by the learned counsel that the respondents were duty bound to hold regular departmental promotion committee meetings each year and the impugned order dated 12.06.2003 (Annexure A-1) as communicated to the applicants that the names of the applicants could not find place in the select panel due to unsatisfactory record of service, applicants are unfit for promotion to LSG cadre w.e.f. 01.10.1991, such a decision after more than a decade deserves to be quashed. He also stated that the applicants have been satisfactorily discharging their duties in the higher posts, therefore, they should be treated as having been promoted regularly.

4. The respondents have contested the claims of the applicants. It has been stated by the learned counsel for the respondents that financial upgradation on completion of 16 years of service was allowed in view of the time bound one promotion scheme as per DGPSTs circular dated 17.12.1983. The second financial upgradation was granted to the applicants pursuant to the BCR Scheme. Both these financial upgradations in higher pay scale were granted to avoid stagnation in the pay scale as per decision of the department with

the mutual agreement of the staff side and the official side. When the DPC was held for regular promotion they considered the guidelines issued by Govt. of India, Department of personal & Training Office memorandum dated 08.02.2002 Annexure R/2. As per the recruitment rules, selection for promotion to LSG (Norm based) is based on selection method. The vacancies for the post of LSG (Norm based) were calculated on 06.02.2002 and the promotion to the selected official was to be given with immediate effect. The names of the applicants for the year 1996-2001 was considered but due to unsatisfactory record of service, the applicants were not recommended by the DPC for promotion in LSG (Norm based) posts, therefore, they could not be allowed promotion ^{on a} ~~on a~~ notional basis w.e.f. 01.10.1991 and the decision of the DPC was communicated to the applicant as per memorandum dated 12.06.2003 (Annexure A-1). It is also stated by the learned counsel for the respondents that merely because the applicants were given financial upgradation and allowed the designation of the post which they were ~~holding~~ ^{holding} they cannot be said to be promoted to the LSG Cadre / HSG. Learned counsel for the respondents stated that the whole case is based on mere ^{presumptions} ~~presumptions~~ and surmises. Time bound promotion and Biennial cadre review promotion on completion of 16/26 years of service does not provide for regular promotion of the employee, therefore, the contention of the applicant that they should have been treated as promoted to those posts is not based on correct interpretation of the scheme of 1983 and 1991. It has also been stated by the learned counsel for the respondents that merely because the applicants have not been found suitable for being placed in the select panel of LSG, they are not going to be deprived of the financial upgradation already allowed to them. Therefore, the entire claim of the applicants being misconceived deserves to be rejected.

5. We have heard the learned counsel for the parties and have perused the materials available on record.

6. The apprehension of the applicants in all these OAs is misconceived inasmuch as they are not being deprived of financial benefits already granted to them under TROP/ECR Scheme. The financial upgradation under those schemes does not confer right of promotion on the applicants. However, the respondents have been taking work from these persons of higher posts considering their suitability for the posts and also considering the fact that they were already drawing the emoluments under the financial upgradation

schemes. These financial upgradations on completion of 16/26 years of service do not give a right of automatic promotion to the higher scales. The applicants remain members of the cadre before grant of these schemes. Therefore, they cannot claim that they should be treated as having been promoted only because they have already completed certain year^{of} service on the post which they were posted. The transfer and the posting orders of the applicants cannot^{be} taken as promotion orders.

7. As per Post & Telegraphs (selection grade posts) Recruitment Rules 1976 as amended from time to time, the promotion to lower selection grade (LSG) in Post Offices as well as in RMS is by "selection"; granting financial upgradation under TDFP and BCR ~~does~~ ^{is} not so, therefore, the order dated 12.06.2003 (Annexure A-1) is otherwise also in order and calls for no interference. In this view of the matter, the present OAs are mis-conceived.

8. We have also seen the minutes of DFC and the relevant records, we do not find that the decision of the DFC ^{is} ~~perverse~~ or against the rules, therefore, no interference in the decision of the DFC is called for.

9. All the OAs (OA No. 273/2003, 303/2003 & 441/2003) are, therefore, dismissed without any order as to costs. The interim orders allowed by this court earlier stands vacated. A copy of this order ~~is~~ being placed in all the relevant files.

(BHARAT BHUSHAN)
MEMBER (J)

(R. K. UPADHYAYA)
MEMBER (A)