

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No.49/2004

Bilaspur, this the 9th day of May 2005.

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

R.R.Bhonsle
S/o Late Shri Shyam Rao Bhonsle
Employed as Assistant Post Master (Accountants)
Head Post Office Bilaspur. Applicant.

(By advocate Shri B.P.Rao)

Versus

1. Union of India through
The Secretary
Department of Posts
Ministry of Communications
Sanchar Bhawan
New Delhi.
2. The Member (Personnel)
Postal Service Board
Ministry of Communications
Department of Posts
Sanchar Bhawan
New Delhi.
3. The Chief Post Master General
Department of Posts
Chhattisgarh Circle
Raipur.
4. The Director
Postal Services
Office of the Post Master General
Raipur Region, Raipur.
5. The Assistant Director (Staff)
Department of Posts
O/o The Post Master General
Raipur Region, Raipur. Respondents.

(By advocate Shri S.A.Dharmadhikari)

ORDER (Oral)

By A.K.Bhatnagar, Judicial Member

By filing this OA, the applicant has claimed the
following reliefs:

- (i) To quash the impugned order dated 21.9.99 (Annexure A12).
- (ii) To direct the respondents to restore the applicant's promotion into HSG-II (BCR Cadre) w.e.f.8.2.94 at par with his juniors on the basis of memo dated 26.6.97 (Annexure A8) with all service benefits.
- (iii) To direct the respondents to pay back with interest the recovery so far made on the basis of impugned order dated 21.9.99.

2. The brief facts of the case are that the applicant was appointed as Postal Assistant in the Postal Department on 4.5.1973. He passed P.O.&R.M.S. Examination in 1981 and was absorbed as Accountant at Bilaspur on 2.2.1982. Time Bound Promotion Scheme was introduced by the Government/ Department vide letter dated 17.12.1983 (Annexure A1). In the Gradation List of Post Office Accountants of M.P.Circle as on 1.7.1990, the applicant's name appears at Sl.No.39, while the name of one S.R. Yadav, immediate junior to the applicant, is at Sl.No.40. Shri S.R.Yadav got TBOP promotion on 8.2.1994, with retrospective effect from 30.11.1983. He got another promotion under Biennial Cadre Review Scheme (BCR Scheme) w.e.f.8.2.1994. The applicant submitted an application for TBOP/BCR promotion at par with his junior S.R.Yadav on 6.3.96 stating therein that since he is senior to S.R.Yadav, he should also be given the benefit of promotions to LSG Grade w.e.f. 8.2.1984 and HSG-II Grade w.e.f.8.2.94 at par with his junior S.R.Yadav (Annexure A4). Thereafter, respondent No.5 by his own basing on the clarifications cancelled the applicant's promotion under BCR Grade (HSG-II) and reverted him to TBOP Scale. The applicant submitted a representation against the aforesaid cancellation on 4.10.99 which was rejected by the Superintendent of Post Offices, Bilaspur on 12.12.99. He again submitted a representation to C.P.M.G, M.P.Circle, Bhopal for restoration of his promotion.



However, the same was rejected by order dated 12.9.2000 by respondent No.4. The applicant thereafter submitted an appeal to Member (P) Postal Service, New Delhi, which was again rejected vide order dated 10.7.2002. Hence this OA is filed.

3. Raising the grounds mentioned in para 5.1 to 5.7 in the OA, learned counsel of the applicant submitted that the applicant is senior to S.R.Yadav as per the gradation list, but he was denied HSG-II Grade, whereas S.R. Yadav has already been posted in HSG-II Grade under BCR Scheme w.e.f. 8.2.94. The counsel further submitted that the applicant was already placed under BCR Scheme in HSG-II scale w.e.f. 14.7.97 by the orders of Director of Postal Services, Raipur and he worked there successfully. So the action of the respondents in reverting him to lower grade is not only illegal and unjust but is also against the clarifications given in the circular dated 17.5.2000. Therefore, the impugned order dated 21.9.1999 is liable to be set aside. He further submitted that the Assistant Director General has no jurisdiction to cancel the promotion order passed by the higher authorities, vide impugned order dated 21.9.99 in contravention of Circular dated 26.6.97. The applicant was promoted to HSG-II BCR Cadre by the orders of the Director, Postal Services vide Annexure A8 order dated 26.6.97 on permanent basis. Therefore, the action of the respondent No.5 in cancelling the promotion of the applicant is illegal and unjustified.

4. On the other hand, the respondents have refuted the claim of the applicant by filing counter reply and submitted that the applicant who was working as Accountant in the Divisional Office, Bilaspur, was promoted under BCR Scheme w.e.f. 8.12.94 vide memo of Post Master General, Raipur dated 26.6.97 in accordance with DG Department of Posts, New Delhi communication dated 8.2.96. This promotion was given from the date of promotion of his junior as Accountant

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i.e. S.R.Yadav in BCR Cadre w.e.f. 8.2.94. When it came to the notice of the Department that the applicant was erroneously promoted to BCR Cadre by taking his seniority incorrectly, the order of promotion of the applicant was cancelled vide order dated 21.9.99 for the reasons mentioned as per DG Posts, New Delhi memo dated 24.9.96. By way of clarification memo dated 29.12.99 it was mentioned that the seniority of such officers in PA Cadre cannot be changed by virtue of their passing the PO & RMS Accounts Examination earlier than seniors. Due to this fact, the applicant though having passed the examination earlier could not claim the benefit of seniority over others. The representation made by the applicant to the Chief Post Master General, MP Circle, Bhopal was rejected vide letter dated 11.8.2000 and the decision was conveyed to the applicant. Inviting our attention to para 5 of the counter, the learned counsel for the respondents submitted that the applicant was promoted in TBOP Scheme w.e.f. 4.5.90 and not as a regular LSG ARM (Accounts). He was then promoted under BCR Scheme on completion of 26 years of service on 1.7.99. A comparison chart of service particulars of the applicant and S.R. Yadav is given as under:

S.No.	Name	Date of entry in PA Cadre	Years of passing Accounts	D/o TBOP	D/o BCR	Remarks
1.	Sh.S.R.Yadav	8.2.68	1982 Batch	8.2.94	8.2.94	
2.	Sh.R.R.Bhonsle	4.5.73	1981 Batch	4.5.90	8.2.94	(which was cancelled by PMG Raipur & promoted under BCR Scheme w.e.f.1.7.99 on completion of 26 years of service in PA Cadre).

The learned counsel further submitted that in view of circular dated 24.9.96/29.12.99, the PO/RMS (Accounts) are born in the gradation list of PA/SA Cadre and there is no

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change in the seniority of PA/SA Cadre after passing the Account Examinations. The TBOP/BCR Scheme is applicable to PO/RMS (Accounts) but their seniority would remain the same as in PA/SA Cadre. Therefore, the applicant is not entitled to any relief and the OA is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the records before us. Admittedly, the date of entry in PA Cadre of the applicant is 4.5.1973 while that of S.R. Yadav is 8.2.1968. It shows that the applicant is junior to S.R.Yadav. There is no dispute that the applicant had passed P.O& RMS Examination of 1981 batch while S.R.Yadav had passed the same examination of 1982 batch, which does not make any change in the seniority position. S.R.Yadav was given promotion under TBOP on 8.2.1984 and BCR promotion on 8.2.94 after 26 years of service in the PA Cadre, which was wrongly granted to the applicant w.e.f. 4.5.90 and 8.2.94. The same was later on cancelled vide impugned order. We have gone through the impugned order and we find no illegality in the same.

6. In the facts and circumstances of the case and in view of the above discussion, we find no merit in the case of the applicant. The OA is accordingly dismissed being bereft of any merit. No costs.

(A.K.Bhatnagar)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पण दिनांक:-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदन पी/सी. नं. ११८८ के कार्यालय
- (3) प्रत्यर्थी पी/सी. नं. ११८८ के कार्यालय
- (4) बांधपाल, जेष्ठमान, जेष्ठमान, जेष्ठमान
सूचना एवं आवश्यक कार्रवाई हेतु

B.P. Rao At Durg
S.H. Dharmadikar

उप सचिव

Issued
On 20.5.05