

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 797 of 2004

Endorse this the 18th day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Mahesh Prasad Nema,
S/o. Shri Har Prasad Nema,
Aged about 55 years, Assistant
Post Master, Head Post Office,
Chhindwara (MP).
..... Applicants
2. All India Postal Employees' Union
Class III, Chhattisgarh Circle,
O/o. Subhdra Kumari Chauhan Ward,
Jabalpur, (MP), Through : its Chief
Secretary, Mr. S.K. Nema.
..... Applicants

(By Advocate – Shri S. Paul)

Versus

1. Union of India, through : its
Secretary, Ministry of Communication,
Department of Posts, New Delhi.
..... Respondents
2. Chief Post Master General,
Chhattisgarh Circle, Raipur (CG).
..... Respondents
3. Superintendent of Post Offices,
Chhindwara Division, Chhindwara.
..... Respondents

(By Advocate – Shri P. Shankaran)

ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants have claimed the following main reliefs :

"(2) to set aside the impugned order dated 23.7.2003 (Annex. A-1) and order dated 26.7.2004 (Annex. A-2) upon holding that BCR



promotion of the applicants are promotion and not financial upgradation,

(3) to command the respondents to provide all the consequential benefits to the applicants in the ladder of promotion as if the impugned order were never passed,

(4) to declare, if necessary, the Fast Track Promotion Scheme as null and void after two years from the date of issuance of the Scheme."

2. The brief facts of the case are that the applicant No. 1 has been given promotion of Biennial Cadre Review Scheme (in short BCR scheme) which was introduced in the year 1991. The DPC considered the case of the applicant No. 1 and he was found to be eligible/suitable for promotion under the BCR scheme. The promotion order is Annexure A-3. Under the BCR scheme for all practical purposes, promotions are given to the employee who are selected for BCR scheme and is given the benefit of FR-22-C/FR-22-I(a)(i). The benefit of FR 22-C is given only when the promotion involves the change in the nature of duties and the greater/higher responsibility is attached to the promotion post. The respondents have passed the order dated 23.7.2004 (Annexure A-1), whereby the BCR officials are said to undergo the selection in LSG quota and only thereafter they shall be considered for the next promotional post of HSG-I. The BCR scheme carries scale of Rs. 1600-2720/- revised Rs. 5000-8000/- w.e.f. 1.1.1996. The LSG carried the inferior pay scale of Rs. 1400-2340/- and the revised scale Rs. 4500-7000/- from 1.1.1996. Since the BCR promotion is not a regular promotion, there is no question for BCR officials to undergo a selection for inferior post carrying inferior pay scale. Thus, the impugned order is bad in law. The respondents have passed another order dated 26.7.2004 (Annexure A-2) by which the action of the respondents in treating the BCR officials as financial upgrading and not promotees is bad in law and contrary to the BCR scheme and circulars issued from time to time. The CAT Madras Bench in OA No. 679/2003 has held that BCR is a promotion and not financial up-



gradation. The applicants are aggrieved by the aforesaid orders dated 23.7.2003 (Annexure A-1) and 26.7.2004 (Annexure A-2). Hence, they have filed this OA.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the CAT, Madras Bench of the Tribunal in OA No. 679/2003 has passed the order dated 19.3.2004, whereby the impugned orders were quashed and set aside and the respondents were directed to consider the case of the applicants for further promotion and this exercise should be completed within 3 months from the date of receipt of copy of the order by the respondents. By this aforesaid order the Tribunal held that under the BCR scheme it shall be deemed that the official has been promoted and not financially upgraded. Hence, the impugned orders dated 23.7.2003 (Annexure A-1) and 26.7.2004 (Annexure A-2) are liable to be quashed and set aside and the OA deserves to be allowed.

5. In reply the learned counsel for the respondents has drawn our attention towards the order passed by the Full Bench of CAT Hyderabad Bench in OA No. 976/2003 and other connected matters decided on 6.4.2005, whereby the Tribunal has held that BCR scheme are financial up-gradation in the scales. In this order the Full Bench has considered the order passed in OA No. 679/2003 by the Madras Bench of the Tribunal which was referred by the applicants and has also referred about the order passed by the Full Bench of the Cuttack Tribunal in OA No. 329/2000 decided on 3.1.2005, wherein in the similar matter it was held that the BCR scheme is not, promoting a person in his normal channel of promotion as per following the recruitment rules. In view of the aforesaid judgments both the impugned orders passed by the respondents are perfectly legal and justified. Hence, the OA deserves to be dismissed.



6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the CAT, Madras Bench has held in OA No. 679/2003 on 19.3.2004 that BCR scheme is held as promotion and the respondents were directed to consider the case of the applicant for further promotion and the impugned order in that OA was quashed. We have also perused the order passed by the Full Bench of Hyderabad Bench of the Tribunal in OA No. 976/2003 and other connected matters decided on 6.4.2005. In this it is held that the BCR schemes are financial up-gradation in the scales. In this order at paragraph 31 the decision taken by the Madras Bench of the Tribunal in OA No. 679/2003 on 19.3.2004 has been quoted and considered. In its paragraph 15 reference is also made to the order passed by the Full Bench of Cuttack Tribunal wherein it is observed that "it goes without saying that if it is promotion granted then necessarily it would run contrary to the recruitment rules. In fact Full Bench of this Tribunal at Cuttack has decided somewhat a similar question. In paragraph 32 of the order passed by Full Bench of Hyderabad Bench it is observed that the department is not promoting the concerned persons to their normal channels of promotion as per the recruitment rules.

7. Considering all the facts and circumstances of the case we are of the considered view that the similar question has already been considered and decided by the Full Bench of the Hyderabad Bench of the Tribunal in above referred case and the present case also squarely covers in all fours with the aforesaid order passed by the Full Bench of the Hyderabad Bench. Hence, the decision so taken in the aforesaid order of the Full Bench of Hyderabad Bench shall mutatis mutandis applicable to be present case as well.

8. In view of the aforesaid, the present Original Application deserves to be dismissed. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman