

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 11 of 2002

Jabalpur, this the 6<sup>th</sup> day of September, 2004

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

T.R. Arya, 41 yrs.  
S/o H.R. Arya,  
Senior Accountant,  
Office of the Dy. Director,  
Accounts (Post), Bhopal.  
R/o B 239, Pushpa Nagar,  
Near Chandwarh, Bhopal.

APPLICANT

(By Advocate - Shri Rajneesh Gupta on behalf of  
Shri R.K. Gupta)

VERSUS

1. The Union of India,  
through its Secretary  
Dept. of Posts and Telegraph,  
New Delhi.
2. The director General  
Dept. of Posts (Post Accounts Wing )  
Daktar Bhawan, Sansad Marg,  
New Delhi
3. The Chief Post Master General  
Madhya Pradesh, Bhopal, Circle,  
Bhopal.
4. The Dy. Director ,  
Accounts,  
Dept. of posts,  
M.P. Bhopal

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main reliefs :-

"(1) respondents be directed to issue fresh order by amending the order in Annexure A/8 by granting the petitioner promotion on the post of Senior Accountant by granting actual benefits thereof w.e.f. July, 1987 itself by properly fixing his pay in the pay scale thereof and allowing increments etc along with arrears till date.

(2) respondents be also directed to grant seniority at the appropriate stage to the applicant after promoting him in the post of Senior Accountant w.e.f. 1987."



2. The brief facts of the case are that the applicant was initially appointed as LDC in the Patna Circle with the respondents. He was promoted as Junior Accountant with effect from 5/1984. Thereafter he was transferred to Bhopal Circle as per Rule 38 and he joined at Bhopal circle on 3.12.1986 as Junior Accountant. As per the prevailing practice. rules and scheme a Junior Accountant on completion of three years service was entitled to be promoted as Senior Accountant in the higher pay scale and as the applicant completed three years of tenure/service as Junior Accountant he also became entitled to be promoted as Senior Accountant w.e.f. 7/1987. The applicant submitted his representation on 28.6.1989 demanding promotion on the post of Senior Accountant w.e.f. July 1987. Admitted the applicant should have been promoted to the post of Senior Accountant w.e.f. July, 1987 itself but he was not promoted and he was told that he did not the complete/station seniority. The promotion is always given according to the cadre seniority. The applicant submits that his promotion was thus withheld wrongly and his cadre juniors who were having station seniority were promoted in December, 1987. The applicant belongs to the Scheduled Caste community and he was thus entitled for promotion in the senior Accountant right from the month of July, 1987 but inspite of their being vacancies he was not given promotion as already stated above. The Station seniors could not be promoted for want of eligibility and the promotion of the eligible person having cadre seniority much above such station seniors cannot be withheld particularly when there are vacancies available. Hence, this original Application.

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

4. It is argued on behalf of the applicant that the



applicant joined his service in the Month of May, 1984. He was entitled for his promotion after completion of three years i.e. w.e.f. from July, 1987. But his claim for promotion is only denied on the ground that he has not attained the Station seniority while in the case of promotion of the applicant only cadre seniority could have been made the basis for consideration for promotion. The respondents promoted sufficient juniors employees on the ground of Station seniority. The applicant also belongs to scheduled caste category but inspite of their being vacancies he was not promoted on the aforesaid ground.

5. In reply it is argued on behalf of the respondents that it is denied that as per prevailing practice, rules and scheme a Junior Accountant, merely on completion of three years regular service is entitled to be promoted in the higher pay scale. The respondents further submitted that the Director/Deputy Director of Postal Accounts is the appointing authority and these posts are filled 100% by promotion on seniority cum fitness basis and filling up of such posts is always subject to availability of vacancy and eligible candidates found fit on seniority cum fitness basis. It is true that the applicant completed 3 years regular service before 1st July, 1987. But the applicant came on transfer to the Office of the Deputy Director of Accounts (Postal) Bhopal in M.P. Circle on 3.12.1986 at his own request under Rule 38(2) of P & T Manual Volume IV. Since the applicant applied for such inter circle transfer at his own request he was placed as Junior most Junior Accountant in the gradation list of PAO Bhopal as on 3.12.1986 in accordance with Rules 38(2) of P&T Manual Vol. IV. This rule envisages the present conditions embodied in acceding to the request for such a transfer that it has to be made without injury to the rights of the other, in accordance with the principle of natural justice. Hence, the contention of the applicant

that he is entitled to his cadre seniority over and above the officials listed in the gradation list of PAO Bhopal is incorrect. The respondents further argued that the officials over whom the applicant is claiming seniority have been promoted/appointed as Junior Accountant by the Deputy Director of Accounts (Postal) Bhopal at an earlier date much before the date of issue of the transfer order of the applicant posting him at Bhopal. Merely belonging to the scheduled caste category the applicant does not become entitled for his promotion under the scheme w.e.f. 1.7.87. Hence, the respondents have rightly refused the promotion of the applicant.

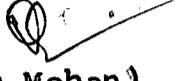
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant was appointed in the year 1984 and he completed his 3 years service in the year 1987. The applicant came on transfer to the office of the Deputy Director, Bhopal on 3.12.1986 i.e. much before May, 1987 and July, 1987 at his own request. The applicant was placed as junior most Junior Accountant in the office of the DDA(P), Bhopal and in the gradation list of PAO Bhopal as on 3.12.1986 in accordance with Rules 38(2) of P & T Manual Vol. IV. Rule 38(2) is reproduced as under :

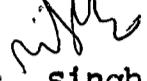
"When an official is transferred at his own request but without arranging for mutual exchange, he will rank junior in the gradation list of the new unit to all officials of that unit on the date on which the transfer order issued, including also all persons who have been approved for appointment to that grade as on that date."

Hence, the applicant did not complete the three years service in the new station, and he lost his station seniority. The ground of the applicant that he is scheduled caste person is not to be considered in this case of promotion.



7. In view of the aforesaid, we find that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन दर्ता/न्या.....जबलपुर, दि.....  
प्रतिलिपि दर्ता/न्या:-

(1) सदिव, उच्च व्यवस्थापन दर्ता/न्या/प्रतिलिपि, जबलपुर  
(2) आवेदक श्री/श्रीमती/दू.....काउंसल  
(3) प्रत्यक्षी श्री/श्रीमती/दू.....काउंसल  
(4) उपर्युक्त दर्ता/न्या, जबलपुर काउंसल

Shri Ratnesh Gupta  
Shri S.A. Khanedkar  
HC 237

सूचना एवं आवश्यक कार्यपालि, दर्ता/न्या

उपर्युक्त दर्ता/न्या

Issued  
JL