

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
(CIRCUIT SITTING AT BILASPUR)

Original Application No: 738/2001

Bilaspur, this the 26th day of March, 2004

HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

D.C. Nandanwar aged 56 years,
s/o late Chingaji Nandanwar,
Post Master, Ispat Bhawan
Bhilai, Distt. Durg (CG).

...Applicant

(By Advocate: Shri N.L. Shrivastava)

-versus-

1. Union of India through
Secretary,
Department of Post Office,
Dak Bhawan,
New Delhi.

2. Principal Chief Postmaster General,
M.P. Circle, Bhopal.

3. Chief Post Master General,
Chhattisgarh Circle,
Raipur.

4. Shri H.K. Bamhanote,
Post Master, Head Post Office,
Bilaspur.

...Respondents

(By Advocate: Shri S.A. Dharmadhikar for Sh. Om Namdeo)

O R D E R

By Shri Madan Mohan, Member (J):

In this O.A. the applicant has sought the following main reliefs:

- i) to direct the respondents to promote the applicant one day earlier than the junior respondent no. 4 Shri H.K. Bahmanote and to pay the arrears of difference from 12.10.1998 between the pay scale of HSG-II and HSG-I with interest @ 18% as the junior has been wrongfully promoted.
2. The brief facts of the case are that the applicant was promoted to HSG-II Cadre w.e.f. 11.2.1985 and his seniority in the HSG-II Cadre was fixed. One Mr. H.K. Bankanote i.e. respondent no. 4, who was junior to the applicant was promoted to HSG-I cadre vide order dated 12.10.1998, so the applicant should have been promoted to HSG-I Cadre from the date of promotion of the respondent no. 4 i.e.

(Signature)

from 12.10.1998. It is also submitted that term of punishment of stoppage of increments had come to an end in April, 1998. No adverse remarks / entry in the confidential reports of the applicant has ever been communicated to him in his service period and he has never been subjected to any major punishment so the promotion of junior prior to the applicant is apparently illegal as the only punishment inflicted on the applicant for stoppage of one increment for two years without cumulative effect has nothing to do with seniority as has been held by the Hon'ble Supreme Court in the case of Shiv Kumar Sharma vs. Haryana State Electricity Board, 1988 2) W.N. 156.

2.1 The respondent no. 2 in his order dated 24.9.2001 has not mentioned any reason for superseding the applicant by respondent no. 4 to be promoted to HIG-I cadre. In the result of supersession, respondent no. 4 i.e. junior to the applicant, started getting more pay and he will receive more pensionary benefits than the applicant. Keeping in view the seniority position, the applicant contends that he is entitled to be promoted to the HIG-I cadre earlier than the respondent no. 4.

3. Heard the learned counsel for both the parties and perused the pleadings available on record.

4. Learned counsel for the applicant argued that his junior Shri H.K. Bamhanote (respondent No. 4) was wrongly promoted by the official respondents prior to the applicant merely on the ground that the applicant suffered a punishment of stoppage of one increment without cumulative effect for two years. He further argued that the said punishment of stoppage of increment has nothing to do with the seniority and does not debar the applicant for promotion in view of the judgement of the Hon'ble Supreme Court in the case of Shiv Kumar Sharma (supra). Learned counsel further argued that no adverse remarks in the confidential reports of the applicant has ever been intimated to the applicant in his service period and he has never been subjected to any major punishment, therefore, the promotion of his junior i.e. respondent no. 4 prior to the applicant is illegal.



and applicant deserves to be promoted to the HSG-I cadre from the date from which his junior has been given promotion to HSG-I cadre i.e. w.e.f. 12.10.1998.

5. In reply, learned counsel for the respondents has argued that applicant was promoted to HSG-II cadre w.e.f. 11.2.1985. His seniority was fixed at serial no. 1 in HSG-II cadre in Circle Gradation List corrected as on 1.7.1997. His case alongwith other employees was placed before the DPC held on 6.8.1998 for consideration of their cases for promotion to HSG-I cadre. Yearwise service records of the applicant for the preceding five years i.e. from 1993-94 to 1997-98 was placed before the DPC held on 6.8.1998 and from 1994-95 to 1998-99 was placed before the DPC held on 8.10.1999, for consideration of his promotion to HSG-I grade. He further argued that since HSG-I cadre is a selection-cum-seniority cadre, as per DOP&T instructions contained in letter dated 6.11.1998 bench mark as 'GOOD' has been prescribed for the selection of the officials for promotion to HSG-I cadre. Accordingly, the applicant did not achieve the required bench mark grading besides censured and withholding of one increment for two years. Therefore, both the DPCs held on 6.8.1998 and 8.10.1999 did not recommend the applicant for promotion to HSG-I cadre. He further argued that as there was no adverse remarks in the confidential reports of the applicant hence the applicant was not legally informed of the said remarks as only the adverse remarks are required to be informed to the individual concerned while the applicant was having average remarks in the ACRs for the last preceding five years.

6. After hearing the learned counsel for both the parties and perusing the records, we are of the view that the post of HSG-I is a selection post. The feeder grade for promotion to the post of HSG-I is H.S.G. -II. The promotion of the officials holding HSG-II can be ordered to HSG-I cadre on the basis of selection-cum-seniority after holding the



D.P.C. As per DOP&T instructions contained in letter dated 6.11.1998, the D.P.C. had to consider ACRs for preceding five years of the official concerned and the bench mark should be 'GOOD' for making him fit for further promotion to HSG-I cadre. Although the learned counsel for the respondents had undertaken to furnish the selection committee proceedings for promotion to the HSG-I alongwith CR dossiers of the applicant within a week but he has not furnished these documents. However, we have perused the reply of the respondents and also the minutes of the DPC held on 6.8.1998 and 8.10.1999 Annexures R-1 and R-2 respectively which clearly reveals that the case of the applicant was taken into account as per his seniority position. His preceding five years ACRs gradation was also taken into account by the DPC alongwith others. The DPCs held on 6.8.1998 and 8.10.1999 found that the applicant secured only 'average remarks' in his ACRs of five years and, therefore, he was not found fit for promotion to the HSG-I by the DPC.

7. In view of the above discussion, we are of the considered view that the applicant has no case and the O.A. deserves to be dismissed. The O.A. is accordingly dismissed. No costs.

(MADAN MOHAN)
Member (J)

/nə/

M.P. Singh
(M.P. SINGH)
Vice Chairman

पृष्ठांकन सं. ओ/ज्ञा..... जवाहारलाल नेहरू, वि.....
प्र. दिव्यांशु राजा, वि.....

महाराष्ट्र विद्यालय बिना

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