

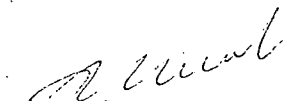
04-1-2008


Mr. P. N. Jatti, Counsel for applicant

Mr. T. P. Sharma, Counsel for respondents

Heard learned Counsel for the parties.

For the reasons dictated separately the OA is allowed.


(J. P. Shukla)
M/A)


(M. L. Chaudhary)
M(J)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Jaipur, the 04th day of January, 2008

ORIGINAL APPLICATION NO. 150/2007

CORAM:

**HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER**

B.B. Sharma son of Suraj Mal by caste Sharma, aged about 46 years, resident of C-119, Karghani Kalwar Road, Jaipur. Presently working as SA (BCR) in the office of Sr. Superintendent, Railway Mail Service, Jaipur Division, Jaipur.

By Advocate: Mr. P.N. Jatti

.....Applicant

Versus

- 1. Union of India through Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.**
- 2. Chief Post Master General, Rajasthan Circle, Jaipur.**
- 3. Sr. Superintendent, Railway Mail Service, Jaipur Division, Jaipur.**

By Advocate: Mr. Tej Prakash Sharma

.....Respondents

ORDER (ORAL)

Applicant who is presently working as Sorting Assistant (BCR) in the Office of Senior Superintendent, Railway Mail Service, Jaipur Division, Jaipur has filed this OA thereby praying that he is entitled to higher pay scale under the BCR Scheme w.e.f. 01.09.2006, the date when he has completed 26 years of service with all consequential benefits instead of 01.01.2007, as granted by the respondents. For that purpose, applicant has also placed reliance on the judgement of the Hon'ble Rajasthan High Court in Writ Petition No. 5574/2001

dated 19.04.2005 whereby the Writ Petition filed by the respondents was dismissed and the finding given by the Tribunal that the employee is entitled to higher scale of pay under the BCR Scheme, when he has completed 26 years of satisfactory service and not from the crucial date i.e. 1st January or 1st July, as the case may be, was upheld.

2. Notice of this Application was given to the respondents. Respondents have filed reply. In the reply, respondents have stated that the applicant has completed 26 years of service on 18.09.2006. Therefore, he was promoted in BCR in the next higher grade of pay w.e.f. 01.01.2007 vide office of Sr. Superintendent, RMS, Jaipur Memo No. B1/BCR/JP/II dated 27.02.2007, which is correct. Therefore the applicant is not entitled for BCR promotion w.e.f. 01.09.2006, as requested by him, instead of 01.01.2007. It is further stated that the respondent have filed an SLP in the Hon'ble Supreme Court of India in the matter, which is registered under No. 3210/2006 and the same is pending in the Hon'ble Supreme Court of India Hence the OA is premature and liable to be dismissed on this ground alone.

3. We have heard the learned counsel for the parties. We have perused the matter and find that it is no longer res-integra. This Tribunal has repeatedly held in the matters, which were filed before this Tribunal, that the benefits under the BC Scheme dated 11.10.1991 are to be granted from the date when one has completed 26 years of satisfactory service and not from the crucial date i.e. 1st

January or 1st July. For that purpose, reliance was placed on the decision of the Full Bench (Chandigarh) of the Tribunal in the case of Piran Dutt & 25 Others vs. Union of India & others, 2005(1) ATJ 430 and also which decision has also been upheld by the Hon'ble High court. Learned counsel for the applicant has further submitted that even SLP filed by the respondent department in the Hon'ble Supreme court of India qua this aspect has also been dismissed.

4. Thus in view of the categorical finding given by the Full Bench (Chandigarh) of the Tribunal in Piran Dutt (supra), has also the decision rendered by the Hon'ble High court in the case of DB Civil Writ Petition No. 5574/2001, Union of India vs. Shankar Lal, and also the fact that the SLP filed by the respondent department against the judgement has also been dismissed, we are of the firm view that the applicant is entitled to all consequential benefits of higher scale of pay under BCR Scheme w.e.f. 19.09.2006 instead of 01.01.2007. The impugned order dated 27.02.2007 (Annexure A/1) so far as it relates to the applicant is hereby quashed and set aside.

5. With these observations, the OA is allowed with no order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ