

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

ORDERS OF THE TRIBUNAL

25.03.2009

OA No. 262/2008

Mr. P.N. Jatti, Counsel for applicant.
Mr. Tej Prakash Sharma, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separated, the OA is disposed of.

(B.L. KHATRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 25th day of March, 2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

ORIGINAL APPLICATION No.223/2008

Shiv Shnakar Sharma
s/o Radhey Shyam Sharma,
r/o Arjun Marg, Singh Bhoomi,
Khatipura, presently working as SA,
BCR in the office of the Railway Mail Service,
'Jp' Dn., Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Senior Superintendent, Railway Mail Service, Jp.Dn., Jaipur

.. Respondents

(By Advocate: Shri D.C.Sharma)

ORIGINAL APPLICATION No.262/2008

K.C.Agrawal
s/o P.L.Agrawal,
r/o H.No.522, Hanuman Ji Ka Rasta,
Jaipur-3, presently working as
SA (BCR) in the office of R.M.S.,
Jp Dn., Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Senior Superintendent, Railway Mail Service, JP Dn. Jaipur

.. Respondents

(By Advocate: Shri Tej Prakash Sharma)

O R D E R (ORAL)

By this common order, we propose to dispose of these Original Applications as the issue involved is same.

2. Applicants in both these OAs are postal employees who were placed in the next higher grade under Biennial Cadre Review (BCR) Scheme after completion of 26 years of service. As per the scheme, the officials who have completed 26 years of service between 1st January to 30th June were given second time bound promotion under the BCR scheme from 1st July of the year whereas the officials who have completed 26 years of service from 1st July to 31st December were given promotion under BCR scheme from 1st January of the next

year. The grievance of the applicants in these OAs is that they should be granted upgradation under the BCR scheme from the date they completed 26 years of service instead of 1st January/1st July. At this stage, it will be relevant to mention that applicant in OA No.223/2008 namely Shri Shiv Shankar Sharma, has completed requisite service of 26 years on 22.3.2004 whereas he was granted higher pay scale of BCR w.e.f. 1.7.2004 instead of 22.3.2004, ^{was} according to the respondents, the applicant has completed 26 years of service on 24.04.2004. The applicant in OA No.262/2008, Shri K.C.Agrawal, has completed 26 years of service on 22.3.1995 but he was granted higher pay scale of BCR w.e.f. 1.7.1995. According to the respondents, the applicant has completed 26 years of service on 25.3.1995. The applicant in OA No.262/2008 has also placed on record representation dated 26.10.2007 (Ann.A1) whereas no such date has been mentioned in the representation filed the applicant in OA No. 223/2008.

3. Notices of these applications were given to the respondents. The stand taken by the respondents in these cases is that as per Director General (Posts) New Delhi letter No.22-1/89 PE 1 dated 11.10.91 whereby the scheme of BCR was introduced w.e.f. 1.10.91, the officials who have completed 26 years of service between 1st January to 30th June of the year 40

were to be placed to the next higher scale of pay w.e.f. 1st July and officials who have completed 26 years of service between 1st July to 31st December were to be placed to the next higher scale of pay w.e.f. 1st January of the next year. Accordingly, the benefit of higher pay scale was given to the applicants in terms of the aforesaid scheme. The respondents have also taken the plea that these OAs are time barred.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. We are of the view that the matter on the point is no longer res-integra and the same is covered by the decision of the Full Bench, Chandigarh of the Tribunal in the case of Piran Dutta & 25 others vs. Union of India & Ors., reported in 2005 (1) ATJ 430. The question which was placed before the Full Bench was as follows:-

“Whether the benefits under BCR Scheme dated 11.10.91 are to be granted from the date one completes 26 years of satisfactory service.

OR

From the crucial dates of 1st January or 1st July as the case may be, which is based on the Biennial Cadre Review of posts to be placed against such identified for upgradation from these crucial dates each year as per subsequent clarifications.”

The question was answered as follows:-

“The benefit under the Biennial Cadre Review Scheme dated 11.10.91 has to be granted from the date one completes 26 years of satisfactory service.”

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6. Thus, in view of the decision rendered by the Full Bench in the case of Piran Dutta (supra), the benefit given under the Biennial Cadre Review Scheme has to be granted to the applicants when they complete 26 years of service. At this stage, it may also be noticed that even the Hon'ble High Court of Judicature for Rajasthan, Jaipur Bench in DB Writ Petition No. 5574/2001 decided on 19.04.2005 has upheld the eligibility of the respondents therein to grant the benefit under Biennial Cadre Review Scheme from the date when the respondents therein have completed 26 years of service. Thus, in the light of the decision rendered by the Full Bench, Chandigarh of the Tribunal in the case of Piran Dutta (supra) and also in view of the decision rendered by the Hon'ble High Court of Rajasthan, Jaipur Bench, we hold that the applicant in OA No.223/2008 is entitled to grant of higher pay scale under BCR scheme on completion of 26 years of service w.e.f. 25.4.2004 and the applicant in OA No.262/2008 is entitled to grant of higher pay scale under BCR w.e.f. 26.3.1995. Since there is delay on the part of the applicants in pursuing the matter, the said benefit shall be granted to the applicants in these OAs notionally from the aforesaid dates. However, consequential benefits of higher pay scale under BCR shall be granted to the applicants from the

date of presentation of the OAs i.e. from 3.6.2008 in OA No.223/2008 and from 15.7.2008 in OA No.262/2008.

7. With these observations, the OAs are allowed with no order as to costs.

(B.L.KHATRI)

Administrative Member

(M.L.CHAUHAN)

Judicial Member

R/