

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 244/94

Date of decision 22.5.1995

Sri Manik Lal Roy

PETITIONER(S)

Sri G.P.Bhowmick

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)


Sri S.Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER, (ADMINISTRATIVE).

1. Whether Reporters of local papers may be allowed to see the Judgement? yes
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? } no
4. Whether the Judgement is to be circulated to the other Benches?


Judgement delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 244 of 1994.

Date of decision : This the 22nd day of May, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri Manik Lal Roy
Son of Late Akhil Chandra Roy
Supervisor, SBCO (LSG)
Radha Krishorpur Head Post Office,
Tripura
P.I.N. - 799120

..... Applicant.

By Advocate Sri G.P. Bhowmick.

-versus-

1. Union of India
(Through Secretary Department of Posts & Director General
of Department of Posts, New Delhi).
2. Chief Post Master General,
N.E. Circle,
Shillong-793001
3. Director of Postal Service (H.Q)
Office of the Chief Post Master General,
Shillong-793001
4. Director of Postal Services,
Agartala Division,
Agartala-799001
5. Shri S.C. Bhattacharjee
Supervisor (SBCO) HSG-II
Agartala.
6. Shri H.C. Ghosh
Postal Asstt. (SBCO) HSG-II, Agartala.
7. Shri Manoranjan Roy
Postal Asstt. (SBCO) HSG-II
Agartala

..... Respondents

By Advocate Sri S. Ali, Sr. C.G.S.C.

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ORDERCHAUDHARI J (V.C.).

The applicant who was appointed to the cadre of Supervisor, SBCO (Lower Selection Grade) in the scale of pay of Rs. 1400-2300 claims that under the time bound one promotion scheme (TBOP/BCR) which came into force from 1991 simultaneously with the scheme of biennial cadre review, he was eligible to be promoted to HSG-II post in the scale of Rs. 1600-2660 irrespective of the fact that he has not completed 26 years of service with retrospective effect from 1.10.91, when his junior ~~respondent~~ ^{that} No. 5 was promoted but the respondents have illegally denied him that benefit.

2. In the written statement the respondents have contended that under the BCR promotion scheme the promotion for HSG-II prescribes eligibility for those officials who have completed 26 years of satisfactory service hence the applicant could not be promoted and his juniors who were appointed as LDC having completed the requisite period ranked above him.

3. The applicant has relied upon a decision of the Principal Bench of Central Administrative Tribunal dated 17.6.94 in O.A. Nos. 1713/93 and 2587/93. The operative portion has been set out in paragraph 6 (XV) of the O.A. It has been held that "In implementing the BCR scheme, the case of the applicants who are in Grade II by virtue of their promotion against 1/3rd merit quota compared to other officials promoted to Gr. II should be considered for promotion to Grade III in their turn as per their seniority whenever their erstwhile juniors in Grade II are

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considered for promotion to Grade III by virtue of their having completed 26 years of service in the basic grade, without insisting on the applicants completing the minimum prescribed years of service in the basic grade. All other conditions of BCR scheme except the length of service will however be applicable while considering their promotion in Grade II".

It also appears from the further quotation of the operative order that it was directed in those cases that in case the applicants are found suitable for such promotion, they shall be promoted from Grade II to Grade III with all consequential benefits including interse seniority and arrears of pay and allowances from such dates and they should also be put on supervisory duties depending on their seniority. It was also observed that the BCR scheme should be to protect the interest of the officials like the applicants (therein) for their promotion from Grade II to Grade III.

4. Mr. Bhowmick submits that the law so laid down fully applies to the applicant. He further submits that the applicant had passed the examination for 1/3 promotional posts in 1981 but was promoted to LSG post on 13.2.89 under the 2/3 quota. He states that Grade II refers to LSG (TBOP) and Grade III now is HSG Grade II.

5. It is unfortunate that the applicant has not chosen to produce a copy of the decision of the Principal Bench on which reliance is placed. What is produced is a copy of a Journal called 'Postal Bharati' in which the General Secretary (possibly of Bharatiya Mazdoor Sangh) has given a note stating the aforesaid portion of the operative order of the decision of the Principal

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Bench. That hardly is sufficient to understand the ratio of the decision or the scope of the legal position explained. The Journal appears to have been published in August 1994. ^{O.A.} It is being heard now i.e. in the month of May, 1995. During this period of time the applicant should have obtained a copy of the said decision. Moreover the order of the Principal Bench as extracted speaks of persons who were promoted to Grade II against the 1/3rd merit quota and we do not know whether the ratio can apply in the instant case because the applicant was promoted to LSG post under 2/3 quota. Mr. Bhowmick submits that the scheme provides that the introduction of the scheme will not affect officials who have already been promoted or likely to be promoted on regular basis to the next higher grade before 31.7.91 under the then existing rules and therefore since the applicant was promoted on 13.2.89 he would be eligible to get the benefit of the scheme. Even if that may be so we cannot say whether the decision of the Principal Bench has dealt with this position or not. Ordinarily having regard to the view taken therein in regard to 1/3 promotion quota it may be possible that that may equally apply to the case of the applicant. We are however handicapped in the absence of the full judgement.

6. Since according to the applicant in view of the legal position explained in the aforesaid decision of the Principal Bench he is entitled to get the HSG-II scale of pay retrospectively from 1.10.91 and since his representations that were filed before filing the O.A. would not have referred to the law as explained by the Principal Bench, we think this is a fit case where the respondents should be directed to re-examine the case of the applicant in the light of the decision of the Principal Bench particularly having regard to the observation that the BCR scheme should be to protect the interest of the officials.



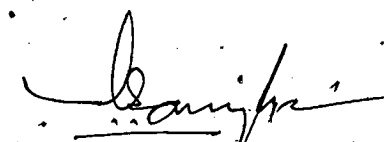
7. In order to effectively decide the question it is desirable that the applicant will produce a copy of the said decision before the authorities. At the sametime the authorities may also try to get the copy of the said decision and acquaint themselves fully with the legal position explained by the Principal Bench.


8. The Chief Post Master General NE Circle, Shillong i.e. respondent No. 2 is hereby directed to consider the case of the applicant afresh for promotion to the pay scale of HSG-II in the light of the above discussion.

9. The respondent No. 2 will also decide the question as to whether the promotion if considered to be given should be given with retrospective effect from 1.10.91 on which date the juniors of the applicant were promoted and the question of inter-se seniority and other consequential benefits. In deciding the question of promotion the respondent No. 2 shall also have due regard to the Circular dated 26.7.91. It is desirable that the respondent No. 2 gives a hearing to the applicant before taking the final decision on re-examination of the case on the question of promotion of the applicant.

10. The respondent No. 2 is directed to re-examine the case and render his decision within a period of three months from the date of receipt of the copy of this order.

The application is partly allowed in terms of the above order. There will be no order as to costs.


(G.L. SANGLYINE)
Member


(M.G. CHAUDHARI)
Vice-Chairman