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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 80 of 1994.  
T.A. NO.

DATE OF DECISION 26.11.1997.

Md. Badiuz Zamal

(PETITIONER(S))

S/Shri J.L.Sarkar & M.Chanda.

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri S.Ali, Sr.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN

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

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? *Yes.*
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.

*I agree*  
*AB*

*[Signature]*  
*26.11.97*

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 80 of 1994.

Date of Order : This the 26th Day of November, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Md. Badiuz Zamal,  
P.A., Golaghat.

. . . Applicant

By Advocate Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India,  
through Chief Post Master General,  
Assam Circle, Meghdoot Bhavan,  
Guwahati-1.

2. Superintendent of Post Offices,  
Sibsagar Division,  
Jorhat.

. . . Respondents.

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

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

In this application the applicant prays that he should be given promotion in the scale of pay of Rs.1400-2300/- with effect from 1.12.1986 under the One Time Bound Promotion Scheme. The applicant joined service as Clerk in the Postal Department on 4.12.70. On completion of 16 years of service an employee was due to get a promotion under the terms of the scheme. The applicant was not however, allowed the promotion from that date and that is his grievance. The Departmental Promotion Committee for this purpose sat on 8.1.87, 30.1.89 and 9.4.92 before its last meeting on 25.2.93 in which the applicant was given the promotion under the scheme with effect from 1.12.1991. The applicant faced disciplinary proceeding and <sup>on</sup> 19.11.1983 he was penalised with a censure under Rule 16 of CCS(CC&A) Rules 1965. He was

again penalised in another proceeding on 21.3.1984 under the same rule for misappropriation of value and cost of certain VP articles. His appeal was also rejected on 5.6.85 and he was undergoing punishment upto April 1987. Again another disciplinary proceeding was initiated on 16.1.89 for another misappropriation and he was penalised on 15.2.89 with stoppage of one increment for a period of 2 years. His appeal against his punishment was rejected both by the departmental authorities and by the Staff Adalat. The learned counsel for the applicant relying on the order of this Tribunal dated 30.4.1997 in Tula Ram Saikia vs. Union of India & Ors. in O.A.No.100 of 1993 has submitted that pendency of departmental proceeding would not be a bar for the applicant from getting promotion under the scheme. The learned Sr.C.G.S.C on the other hand submitted that the applicant could not be promoted during the currency of the punishment.

2. We have heard learned counsel of both sides and considered the facts before us. The applicant prays for his promotion with effect from 1.12.1986. As on that date it is clearly evident that the applicant was undergoing punishment by virtue of the order dated 21.3.1984. We are of the view that the decision of this Tribunal relied on by the learned counsel for the applicant and referred to above is of no help to the applicant in the present case. The facts of that case differ from the facts of the present case. In that case the order of promotion in which the name of the applicant was not included was issued on 15.12.92 whereas the disciplinary proceeding was initiated later on on 14.5.93. Further in that case there was no punishment but in the present case there was a departmental punishment which was effective as on 1.12.1986. In our opinion the applicant cannot be granted promotion under the scheme during the currency of the punishment he was undergoing. Under

the circumstances we do not consider that there is any arbitrariness or illegality in the action of the respondents in refusing to allow the applicant retrospective promotion with effect from 1.12.1986. In the facts and circumstances stated above we find no merit in the contention of the applicant in this application and accordingly the application is dismissed. No order as to costs.



( D.N.BARUAH )  
VICE CHAIRMAN



( G.L.SANGLYINE )  
ADMINISTRATIVE MEMBER