

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00235/15**

Date of Order: 23.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Arun Kumar Shukla, Son of Late R.K. Shukla, Ex HAS, RMS 'U' Division, Muzaffarpur, resident of Kishoralaya Bhawan, Anandpuri Bibiganj, Muzaffarpur-Vaishali (Bihar).

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Director General of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle, Patna.
3. The Post Master General, Northern region, Muzaffarpur.
4. The Director, Postal Services, Northern Region, Muzaffarpur.
5. The Superintendent, Railway Mail Service 'U' Division, Muzaffarpur.
6. The Director Accounts of Post, Bihar, Patna- 800001.

..... Respondents.

- By Advocate(s): - Mr. Bindhyachal Rai

O R D E R
[ORAL]

Per Dinesh Sharma, A.M.:- The case of the applicant is that his request for grant of promotion in LSG norm based cadre w.e.f. 06.01.2006 (Instead of from 12.05.2009) has been rejected for the sole reason of the pendency of departmental proceeding which culminated with punishment of 'Censure' on 11.05.2009. This is totally bad in law, against rules and contrary to various judicial pronouncements. He has prayed for granting the benefit of LSG norm-based cadre w.e.f 06.01.2006, i.e. the date from which his junior Namely, Shri Shashi Bhushan Kumar Singh got promotion.

2. The applicant had earlier approached this Tribunal in OA 351/2009 where this Tribunal had directed the CPMG (Respondent no. 1 in that case) to treat his OA as representation and decide the matter by issuing a reasoned and speaking order. Following this an order was passed by CPMG dated 28.04.2010 in which the CPMG directed the SRM (U) Division, Muzaffarpur to consider his case for notional promotion in LSG cadre at par with his immediate junior so that his case for promotion to HSG cadre may be considered as per rules. Since this was not done the applicant again approached this Tribunal through OA 535/2014 which was disposed of 31.07.2014 with a direction to the respondent no. 2 (the Chief Postmaster General, Bihar Circle, Patna) to dispose of the representation of the applicant by a reasoned and speaking order. The CPMG has passed an order dated 03.03. 2015 in which he has rejected the applicant's request, again quoting the reason of penalty of 'Censure'. This, according to the applicant, is wrong and should be set aside.

3. The respondents have denied the claim of the applicant. They have claimed that the order passed by CPMG in compliance of this Tribunal's order in OA 535/2014 dated 31.07.2014 is in full compliance of that direction. Since there were Rule-14 cases pending against the applicant on 06.01.2006 which ended with the punishment of 'Censure', the applicant was correctly allowed promotion on notional basis w.e.f. 12.05.2009, by the DPC held on 18.08.2010, just after the date of conclusion of pending disciplinary proceeding under Rule-14 of CCS(CCA) Rules, 1965. They have also mentioned that the earlier order of the CPMG in compliance of the

earlier order of this Tribunal in OA 531/2009 was only for consideration of his case under the Rules and it did not entitle him to get notional promotion with effect from his said junior. The respondents have also alleged that there is no financial loss to the applicant because of this action since there is no change in the pay band and grade pay which has been recommended by 6th CPC for LSG/HSG.

4. We have gone through the pleadings and heard both the parties. The short matter for decision is whether a punishment of 'Censure' can be used to delay a person's promotion. The obvious answer to this question will be in the negative since it would amount to inflicting a larger punishment than what was intended by the punishment actually imposed after the enquiry. Just because enquiry was pending at the time when he became eligible for promotion also cannot be a reason for delaying his promotion since, at the conclusion of the enquiry, no punishment other than Censure was imposed. In the absence of any other facts brought to our notice, the applicant deserves consideration for promotion from the date his junior was given. The respondents are, therefore, directed to grant him notional promotion from the date the same is given to his junior (Shri Shashi Bhushan Kumar Singh) and also release any consequential benefits that may accrue by such notional promotion. Order to this effect will be issued by the respondents within two months of the receipt of a copy of this order. The OA is, accordingly, disposed of. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member