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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.385/2003

Tuesday, this the 9th day of September, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Mr. S. K. Naik, Member (A)

Shri S.K.Lahiri aged 53  
r/o MPT-413, P&T Colony, Sarojini  
Nagar, New Delhi-23  
Presently employed as Postal Assistant  
(SBCO) Sarojini Nagar, HPO, New Delhi

..Applicant

(By Advocate: Shri P.K. Dey, learned counsel)

Versus

1. The Director General  
Deptt. of Post  
Dak Bhawan, Patel Chowk  
Parliament Street, New Delhi
2. The Chief Postmaster General  
Delhi Circle, New Delhi

..Respondents

(By Advocate: Shri Rajeev Bansal, learned proxy counsel  
for Shri B.K.Aggarwal, learned counsel)

O R D E R (ORAL)

**Shri S.K. Naik:**

Shri S.K. Lahiri presently serving as Postal Assistant under the Savings Bank control Organisation (SBCO for short) at Sarojini Nagar, HPO, New Delhi seeks the benefit under the scheme of Time Bound One Promotion introduced for Groups 'C' & 'D' staff by the Postal Department vide their Office Order No. 31-26/83-PE-I dated 17.12.1983 (subsequently referred to as Scheme of 1983). This benefit has been extended to him from 1.8.1991 and not from 1983 which is his main grievance.

2. The facts of the case are that the applicant was originally appointed as a Primary Teacher in the Mana Group of Transit Centres under the Rehabilitation Wing of Ministry of Home Affairs during 1970. On a decision of

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the Govt. of India to wind up the Transit Centre, the applicant, amongst others, was declared surplus and surrendered to the Surplus Cell of the Govt. of India in the Department of Personnel & Admn. w.e.f. 30.4.1976. He was subsequently re-deployed as Lower Division Clerk (LDC) in the Postal Department and appointed in that capacity on 26.12.1976. This was as a measure of rehabilitating him from the Surplus Cell.

3. Based on the decision taken under the mechanism of Joint Consultative Machinery, the P&T Departmental Council succeeded in persuading the Govt. to introduce a scheme for promotion under which all officials belonging to basic grades in Groups 'C' & 'D' who had completed 16 years of service were to be made eligible to be placed in the next higher grade. Accordingly, the Indian Posts & Telegraphs Department notified the scheme vide their order dated 17.12.1983. The scheme was made effective from 30.11.1983. It is important to mention here that vide the said order, the scheme was to be made applicable to operative cadres which were specifically listed in the annexure thereto. The category of LDC (SBCO) to which the applicant belongs did not find mention in the list.

4. Subsequently, during 1991, however, the scheme was extended to the staff working in Saving Bank Control Organization vide Govt. of India, Ministry of Communication, Deptt. of Posts order No. 20-2/88-PE.1 dated 26.7.1991 making it effective from 1.8.1991. On the extension of the scheme to the LDCs, UDCs, etc. of SBCO, the applicant was also extended the same which he

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is presently enjoying. The contention of the applicant is that he has been wrongly denied the benefit under the scheme of 1983.

5. Counsel for the applicant has contended that since he was first appointed by the Govt. of India even though as a Primary Teacher during 1970 and later on transferred to the Surplus Cell for no fault of his, the entire period of his service right from 1970 should have been counted by the Department of Posts for the purpose of extending the benefit of the Time Bound One Promotion scheme and that too not under the scheme of 1991 but under the scheme of 1983 soon after he completed 16 years of service from the year 1970. For his entitlement to count the past service, he has relied upon the judgment of the Hon'ble Supreme Court in Dwijen Chandra Sarkar & anr. v. Union of India & anr., 1998 (6) SCALE 583 vide which the Apex Court has held as under:-

"21. In our view, the Tribunal was in error and its order is set aside. The appellants will be entitled to the higher grade from the dates they completed 16 years of service computing the same by taking into account their past service in the Rehabilitation Department also along with the service in the P & T Department. They will be so entitled as long as they remained in the post of Assistant and till their normal promotion to a higher post according to Rules. The difference between the emoluments in the grade as due to them and amount which was actually paid to them, shall be computed and be paid within a month from the date of this order. There will be no order as to cost."

6. Even though a number of other decisions have been cited under the relief column, the counsel has argued

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vehemently and stressed only on this contention of counting applicant's past service on the strength of the Apex Court judgment cited above.

7. Counsel for the respondents on the other hand has argued that, as admitted by the applicant himself, he was appointed as a school teacher in the Rehabilitation Department under the Ministry of Home Affairs. On being declared surplus when he became jobless, the Department of Posts appointed him against the vacancy of a Lower Division Clerk during 1976. Neither was the post on which he was appointed from his earstwhile Department the same, nor was the post equivalent. That apart, the counsel has contended that the judgment of the Apex Court cited by the counsel for the applicant is distinguishable on the facts and circumstances of the case. He has drawn our attention to the fact that in the scheme of 1983, it has been clearly mentioned that it was applicable to only those of the Postal Department staff belonging to Groups 'C' & 'D' who were part of the operative cadres listed in the annexure to the scheme. He has also stated that the scheme was drawn up and agreed to between the various groups of employees of the Department and it was a conscious decision to bring within its ambit only certain cadres and not all the employees. It is admitted by the applicant that the cadre of LDCs<sup>(S8co)</sup> did not form a part of the 1983 scheme and, therefore, the question of benefit of his past service under the 1983 scheme did not arise.

8. Extending his argument further, the counsel has stated that when the scheme was subsequently extended to

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the group/cadre of employees of the like of the applicant, he has been extended the benefit w.e.f. 1.8.1991 and has since been enjoying the benefit over a decade. He has, therefore, contended that by his own conduct and on the ground of delay, the application needs to be rejected outright.


9. We have considered the arguments advanced by the counsel for both the parties. The short point for consideration is as to whether the applicant, who was initially appointed as a Primary School Teacher by the Rehabilitation Wing of the Ministry of Home Affairs and was subsequently transferred to the surplus pool from where he was appointed against the post of LDC<sup>(SBco)</sup> in the Department of Posts as a measure of Rehabilitation, will be entitled to the benefit of his past service under the scheme of Time Bound One Promotion of the Department of Posts launched during 1983.


10. Counsel for applicant has very strongly relied on the judgment of the Hon'ble Apex Court in Dwijen Chandra Sarkar's case (supra) but has not been able to convince us as to how the citation will come to his rescue in the absence of the category of LDCs<sup>(SBco)</sup> not having been included as part of the scheme of 1983. He has also not been able to explain as to why the scheme of 1983 was not challenged when he and his colleagues of the same category were not included as the beneficiaries under the scheme. Further, he has no answer to the argument advanced by the counsel for respondents that he has accepted the benefit under the scheme extended to him

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w.e.f. 1.8.1991. A long time has since passed for which again there is no plausible explanation. We find that the scheme of 1983 was drawn up in consultation with the Joint Consultative Machinery and the Departmental Council of the Posts and Telegraphs Department signed an agreement with the Government in which the specific category of employees who were to benefit from the scheme was a part thereof. Under these circumstances and at this grossly belated stage, the contention of the counsel for applicant that there has been any discrimination has no merit. The Hon'ble Supreme Court's ruling cited above would have been applicable had the cadre to which the applicant belongs been a part of the scheme. The application, therefore, being devoid of any merit is dismissed without any order as to costs.

  
(S. K. Naik)  
Member (A)

  
(Mrs. Lakshmi Swaminathan)  
Vice Chairman (J)

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