

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

15  
O.A. NO. 108/2003

NEW DELHI THIS 15TH DAY OF JANUARY 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)  
HON'BLE SHRI S.A. SINGH, MEMBER (A)

B R Kardam S/o Karan Singh  
Postal Asstt. Mathura City, PO Mathura,  
23/24, Jamuna Nagar,  
East Janakpuri, Mathura.

.....Applicant  
(By Shri D P Sharma, Advocate)

VERSUS

1. Union of India through Secretary,  
Min. of Communication, Deptt. of Posts, Dak  
Bhawan, Sansad Marg, New Delhi.
2. The Chief Postmaster General,  
UP Circle - Lucknow.
3. The Postmaster General,  
Agra Region - Agra.
4. The Senior Superintendent Post Offices,  
Mathura Division - Mathura.

.....Respondents

(By : Shri N S Mehta, Sr. Counsel)

O\_R\_D\_E\_R\_(ORAL)

BY HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Applicant claims promotion as HSG-II under  
Binnial Cadre Review Scheme hereinafter BCR Scheme  
w.e.f. 1.7.95 instead of 1.7.99.

2. On completion of 26 years of service BCR is  
due to all postal employees. When the promotion is due  
in the first half of the year the same has to be  
accorded from 1st of July of that year.

3. Applicant claims that there was nothing adverse against him as on 1.7.95 and granting him the BCR wef 1.7.99 is not legally correct as he was not facing any disciplinary proceedings. On the other hand the respondent's Sr. counsel Shri N S Mehta resorting to DoPT OM dated 14.9.92 and more particularly clause 3.1 & 2 which contends that if any penalty is imposed on the individual as a result of the disciplinary proceedings the findings of the sealed cover shall not be acted upon and be considered by the next DPC.

4. It is in this back drop stated that on 5.6.95 the applicant was placed under suspension and before the due date 1.7.95 he had been issued a major penalty charge sheet. The aforesaid charge sheet culminated into imposition of punishment of reduction by 2 stages by order dated 15.6.98 which was reduced by the Appellate Authority to 3 months in its order 6.10.98. In the aforesaid background it is stated that applicant was facing chargesheet his case was kept under sealed cover.

5. Although it is stated that subsequent DPC held on 24.2.99 and 25.2.99 the case of applicant was considered but due to unsatisfactory work and conduct he was not found fit for promotion.

6. It is also stated that DPC which held on 17.2.2000 the applicant was considered fit for upgradation with effect from 1.7.99 and accordingly benefits have been given to him from the said date.

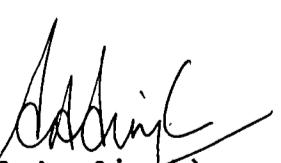
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7. We have carefully considered the rival contention of the parties and perused the documents brought on record. Although the suspension was treated as on duty but in view of DoPT OM dated 14.9.92 the proceedings were correctly placed under sealed cover as the applicant was facing the disciplinary proceedings. However, due to infliction of punishment the same was not acted upon. Later on the DPC though considered the case but due to unsatisfactory work and conduct and punishment imposed on him he was not found fit. On subsequent DPC when he was found fit he was granted BCR with effect from 1.7.99. This is settled principal of law that promotion cannot be treated as right and is subject to satisfactory service record as per the guidelines for the BCR as well. Once the punishment has been inflicted and the fact that Disciplinary proceedings were pending the applicant was not entitled for promotion with effect from 1.7.95. However since he was declared fit by the DPC on 17.2.2000 he was granted the benefit of upgradation with effect from 1.1999 which does not suffer from any legal infirmity.

6. In the result for the foregoing reasons the OA is dismissed.

No cost.

  
(S.A. Singh)  
Member (A)

  
(Shanker Raju)  
Member (J)

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