

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00849/15

Date of Reserve:30.09.2019

Date of Order:20.11.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Kishor Chandra Patanaik, aged about 62 years,S/o.late Govinda Chandra Patanaik, At-Anand Vihar, Sarbahal, PO/Dist-Jharsuguda-768 201.

...Applicant

By the Advocate(s)-Mr.N.R.Routray

-VERSUS-

Union of India represented through:

1. The Secretary-cum-Director General of Poss, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Director of Postal Services, O/o. Post Master General, Sambalpur Region, At/PO/Dist-Sambalpur-768 001.
4. Superintendent of Post Offices, Sambalpur Divisio, At/PO/Dist-Sambalpur-768 001.
5. Director of Accounts (Postal), At-Mahanadi Vihar, PO-Naya Bazar, Cuttack-753 004.

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant is a retired Postal employee. In this Original Application under Section 19 of the A.T.Act, 1985, he has sought for the following reliefs:

"...to quash Annexure-A/4 and direct the respondents to extend the benefit of O.A.No.1196/2004 and O.A.No.1213 to 1221/2004 and promote the applicant to HSG-I Cadre after 11 years of LSG promotion or 3 years of BCR/HSG-II promotion which is beneficial to applicant with all consequential benefits after refixation of pay and pension".

2. Brief facts leading to filing of this O.A. are that the applicant joined service as erstwhile T.S.Clerk in the year 1974, now re-designated as Postal

Assistant. On completion of 16 years service as such, he was promoted to the cadre of LSG under OTBP/TBOP scheme with effect from 20.06.1990. On completion of 26 years of service in the basic grade, he was further granted the benefit of the said scheme in the year 2000 and in the year 2014, he retired from service on attaining the age of superannuation.

3. It is the case of the applicant that he came to know that some staff of Cuttack North Division had been given notional promotion to HSG-II after eight years of getting OTBP/TBOP/LSG promotion and HSG-I after 3 years thereof vide order dated 04.02.2015 issued on the basis of letter dated 21.01.2014 issued by the Postal Directorate, and therefore, he submitted a representation dated 11.08.2015 (A/3) to the Chief Post Master General, Orissa Circle with a request to give him promotion to HSG-I with effect from the date the same was due and admissible to him, along with grant of consequential benefits as have been granted to similarly situated persons. This representation having been rejected vide communication dated 24.09.2015 (A/4), the applicant has invoked the jurisdiction of this Tribunal in the instant O.A.

4. The grounds urged by the applicant in support of his claim are that non-extension of benefits as have been extended to similarly situated persons amounts to discrimination thus violative of Article-14 of the Constitution of India.

5. Applicant has also filed M.A.No.875/2015 seeking condonation of delay. It has been pointed out that the claim of the applicant relates to a period more than a decade ago and this being a pay fixation matter, is a continuing cause of action and therefore, delay occurred may be condoned keeping in

view the decision of the Hon'ble Apex Court in M.R.Gupta vs. Union of India & ors. (C.A.No.7510/1995) (1995 (2) Unreported judgment 689).

6. On being noticed, the respondents have filed an objection to the M.A. by pointing out that the claim of the applicant arising out of promotional benefits, it cannot be said to be a continuing cause of action and therefore, on the ground of delay, the O.A. deserves to be dismissed.

7. We have heard the learned counsels for both the sides and perused the records. We have also gone through the order dated 24.09.2015 (A/4) whereby the respondent-authorities have turned down the claim of the applicant. It has been indicated therein that the order of this Tribunal dated 23.07.2008 being applicable to those officials, who had filed O.A.No.1196/2004 and 1212 to 1221/2004, the applicant is not entitled to reliefs sought for.

8. During the course of hearing on admission, learned counsel for the respondents furnished an order dated 31.07.2019 in O.A.No.260/626/2015 passed under similar circumstances. For the sake of clarity, the said order is extracted hereunder:

"Heard learned counsels for the applicant and respondents.

This O.A. is filed with M.A.No.873/13 for condoning delay in filing the O.A. on the ground that it is a continuing cause of action.

Respondents' counsel submitted that objection to the M.A.No.873/15 has been filed by the respondents enclosing a copy of the common order dated 27.3.2019 passed by this Tribunal in O.A.No.505/2018 along with a batch of other OAs, in which it has been held that the claim for promotion to LSG/HSG Scheme at par with other employees who were allowed similar benefits vide order dated 4.2.2015 in pursuance to the order of this Tribunal in O.A.No.1196/2004 is not acceptable in the light of the judgment dated 24.7.2018 of Hon'ble High Court in W.P.(C) No.7015 of 2017. Those OAs were accordingly dismissed. The facts of the present OA are similar to the facts of OA No.505 of 2018, for which, the order dated 27.3.2019 will also cover the present O.A.

Further, since promotion to LSG/HSG cannot be considered as a continuing cause of action the grounds advanced in the M.A.No.873/15 are not tenable. Accordingly, them.A.No.873/2015 as well as the present O.A. are dismissed in the light of the common order dated 27.3.2019 in O.A.No.505 of 2018 with linked OAs. There will be no order as to costs”.

9. There is no dispute regarding similarity of facts of the present OA with that of O.A.No.260/625/2015 and O.A.No.505 of 2018 and linked OAs. In view of this, we are not inclined to make a departure from the view already taken by us under similar facts and circumstances. Therefore, following the ratio already decided, we dismiss this O.A. at the stage of admission itself with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(J)