

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 518 of 2012**

A.G. Khan S/o Late Shri A.L. Khan, Aged about 60 years, Retd. Assistant Post Master,
Bilaspur, R/o- Chhattisgarh, 495001

---- Petitioner**Versus**

The Director General, Department of Posts Dak Bhawan, Sansad Marg, New Delhi

---- Respondent

For Petitioner	:	Shri Mateen Siddiqui, Advocate
For Respondent	:	Shri N.K. Vyas, Assistant Solicitor General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri P. Sam Koshy, Judge****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****17/04/2017**

1. This is a second round of litigation from the order of Central Administrative Tribunal.
2. The Petitioner was a Postal Assistant. He claimed eligibility to TBOP Scheme and BCR Scheme which are essentially time bound conferment of higher scale of pay.
3. The crux of the matter relates to the plea of the Petitioner that he is senior to Shri G.P. Pandey and Shri D.B. Dhomne and therefore he should be given the benefit of TBOP and BCR w.e.f. the date on which those benefits were extended to the said two persons. The learned Tribunal initially directed consideration of a representation. This Court, in an application under Article 227 of the Constitution, directed the Tribunal to re-consider the

matter, also making reference to two circulars. Following that, the Tribunal has held against the Petitioner. Hence, this application under Article 227 of the Constitution.

4. Heard the learned counsel for the Petitioner and the learned Assistant Solicitor General.
5. Shri D.B. Dhomne was appointed on 7.9.1960 and Shri G.P. Pandey was appointed on 12.12.1968. The Petitioner was appointed on 11.2.1971. Obviously therefore, the Petitioner cannot claim to have been appointed earlier to either Shri G.P. Pandey or Shri D.B. Dhomne. Reckoning the date of entry in the service, it cannot be gain said that the Petitioner is senior to either Shri G.P. Pandey or Shri D.B. Dhomne.
6. Having regard to the nature of the different schemes that were brought in to provide time bound higher scale and benefit of such schemes, the date of confirmation in service is not what is relevant. The question of confirmation qua an employee is an issue which may have different shades, including the relevant dates for different purposes. That is of no consequence while deciding the date of entry into service to ensure that a particular employee gets his time bound benefit of higher grade or higher pay with the passage of the prescribed length of time as a government servant. Equally, the inter se seniority as reflected in the gradation list is also of no consequence for conferring the benefit of TBOP or BCR Schemes because inter se seniority would be relevant only in a case where the Petitioner who makes a claim is able to demonstrate that he is senior to Shri G.P. Pandey and Shri D.B. Dhomne. As already noticed those two persons entered into services long before the Petitioner was appointed on 11.2.1971. The confirmation of the Petitioner in service w.e.f. 1.2.1974 is also hence of no consequence.
7. The only plea of the Petitioner before the Tribunal was that the benefit of two circulars would inure to him in as much as Shri G.P. Pandey and Shri

D.B. Dhomne were given the benefit though they were his juniors. That factual plea is unfounded having regard to the relevant dates. Hence the plea of the Petitioner had to fail at the hands of the Tribunal. That has happened, though for different reasons which are stated by the Tribunal.

8. For the aforesaid reasons we do not find our way to hold that the impugned order of the Tribunal results in injustice or is illegal. Hence, we do not find any ground to interfere with the impugned order of the Tribunal.
9. In the result, the writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(P. Sam Koshy)
Judge