



W.P.Nos.31098, 31282 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.Nos.31098 and 31282 of 2019 and

WMP Nos. 31218 and 31429 of 2019

1. The Chief Postmaster General,
Tamilnadu Circle, Chennai 600 002.
2. The Postmaster General, Western Region,
Coimbatore 641 002.
3. The Superintendent of Post Offices,
Namakkal Division, Namakkal 637 001.

... Petitioners in
both writ petitions

Vs.

1. P.Krishnamurthi
1. S.Ramasamy
2. The Registrar,
Central Administrative Tribunal,
Chennai.

... first respondent in
W.P.No.31098/2019

... first respondent in
W.P.No.31282/2019

... Second respondent in
both writ petitions



W.P.Nos.31098, 31282 of 2019

Prayer in W.P.No.31098/2019: Writ petition filed under Article 226 of Constitution of India to issue a writ of certiorari, calling for the records relating to the order passed by the second respondent dated 02.08.2018 in O.A.No.310/01087/2014 and quash the same.

Prayer in W.P.No.31282/2019: Writ petition filed under Article 226 of Constitution of India to issue a writ of certiorari, calling for the records relating to the order passed by the second respondent dated 02.08.2018 in O.A.No.310/01086/2014 and quash the same.

In both writ petitions

For petitioner : Mr.V.Chandrasekaran
For Respondents : No appearance for first respondent
R2 - Tribunal

COMMON ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

Both the writ petitions have been filed, as against the common order passed by the Tribunal in O.A.No.01086, 01087/2014, dated 2.8.2018, in and by which, the petitioners/Department was directed to grant promotion to the first respondent herein in the writ petitions to the post of HSG-I on par with their juniors.



W.P.Nos.31098, 31282 of 2019

2. The brief facts leading to the filing of the writ petition is as follows:

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The first respondent in W.P.No.31098, 31282/2019 had joined as Postal Assistant in the postal Department on 7.12.1969 and 2.5.1966 respectively and subsequently, they were promoted to the post of LSG on 10.12.1985 and 30.11.1983 respectively and further they were promoted as HSG-II on 01.01.1996 and 1.7.1992 respectively. Thereafter, they retired from service on superannuation on 31.01.2008 and 31.08.2004 respectively.

2.1. It is the contention of the first respondent that in the writ petitions, they were figured at Sl.No.1830 and 981 respectively in the gradation list of HSG-II officials, as on 01.07.1997. However, their juniors were promoted to the post of HSG-I on different dates from the year 2001 to 2007, overlooking their seniority. Therefore, they have given representation dated 25.02.2013 and 19.04.2013 respectively, requesting the Department to promote them as HSG-I from the year 2001 onwards and to give monetary benefits, including, enhancing pensionary benefits. But, the petitioners Department has refused their claim, vide impugned order dated 11.12.2013, stating that the first respondent in both the writ petitions were not promoted as LSG grade or HSG Grade-II, during their tenure of service. But, in the

Page 3 of 14



W.P.Nos.31098, 31282 of 2019

letter under RTI enquiry dated 9.4.2013, the first respondent (P.Krishnamurthy in W.P.No.31098/2019) name has been found place in serial No.1830 at page No.103, and in column No.5 and 6, it has been stated that the date of promotion to the post of LSG was on 10.12.1985 and the date of promotion to the post of HSG-II was on 01.01.1996. Like wise, the first respondent (S.Ramasamy in W.P.No.31282/ 2019) name has been found place in serial No.981 at page No.55, and in column No.5 and 6, it has been stated that the date of promotion to the post of LSG was on 30.11.1983 and to the promotion to the post of HSG-II was on 01.07.1997. Therefore, the contention of the Department that the first respondent in the writ petitions were not promoted to the post of LSG or HSG-II, during their tenure is not correct. As such, they filed original applications before the Tribunal seeking direction to the Department to give promotion to the post of HSG-I on par with their juniors from the year 2001 and the same was allowed by common order. Challenging the order of the Tribunal, the present writ petitions have been filed by the Department.

3. The learned counsel for the petitioners/Department submitted that, the first respondent (S.Ramasamy in W.P.No.31282/2019) was entered into service in the postal Department as clerk (now postal assistant) on



W.P.Nos.31098, 31282 of 2019

02.05.1996; likewise, the first respondent (P.Krishnamurthy in W.P.No. 31098/2019) was entered into service as postal assistant on 07.12.1969. As per the existing rules, an LSG official with 3 years of regular service in the said cadre is eligible for considering promotion to HSG-II cadre; and HSG-II official with 3 years of regular service in the said cadre is eligible for considering for promotion to HSG-I.

4. He further submitted that the pay of the first respondent (S.Ramasamy in W.P.No.31282/2019) was upgraded under TBOP (Time Bound One Promotion) scheme w.e.f. 30.11.1983 and under BCR (Biennial Cadre Review) scheme w.e.f. 01.07.1992 and subsequently he was promoted as LSG notionally w.e.f. 1.7.1996, vide office letter No.B-4/6, dated 30.06.2003 and thereafter, he retired from service on 31.08.2004. Like wise the first respondent (P.Krishnamoorthy) in W.P.No.31098/2019 was appointed as postal assistant on 7.12.1969 and he was upgraded under TBOP (Time Bound One Promotion) scheme w.e.f. 10.12.1985 and under BCR (Biennial Cadre Review) scheme w.e.f. 01.01.1996 he was not granted promotion to the post of LSG,/HSG-II and subsequently, he retired from service on 31.01.2008.



W.P.Nos.31098, 31282 of 2019

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5. It is the contention of the petitioners that, TBOP is not equivalent to LSG and BCR is not equivalent to HSG II. TBOP and BCR are only the financial upgradation, whereas, LSG, HSG-II and HSG-I are promotions. Though the first respondent (S.Ramasamy in W.P.No.31282/2019) was notionally promoted to the cadre of LSG notionally, he was not even promoted to feeder category HSG-II. Likewise, the first respondent (P.Krishnamoorthy in W.P.No.31098/2019) was granted financial upgradation under TBOP and BCR scheme, he was not promoted to the post of LSG, HSG-II and hence, he is also not entitled to promotion as HSG-I. However, based on the copy of the Circle Gradation list of HSG-II, as on 01.07.1997, which was provided under RTI Act, the Tribunal had come to the conclusion that the first respondent in the writ petitions were given promotion to the post of HSG-II on the respective dates denoted against them and hence, they are entitled to get promotion to the post of HSG-I, at least from the dates, their juniors were promoted as such.

6. It is clarified by the petitioners that, while giving information under RTI Act, some mistake has been occurred by printing the name of the



W.P.Nos.31098, 31282 of 2019

cadres in the circle gradation list of the officials working under BCR scheme, which is stated in its caption as “ Part-II officials promoted to HSG-II grade under BCR scheme ” **instead of “ Part -II officials granted financial upgradation under BCR scheme ”** . However, by taking advantage of the above said mistake, the first respondent in the writ petitions had filed the original applications before the Tribunal, seeking promotion to the post of HSG-I and the Tribunal has allowed the applications, vide impugned order dated 2.8.2018. Therefore, the same is liable to be set aside.

7. Despite sufficient opportunities were granted, none appeared on behalf of the first respondent in both the writ petitions.

8. Heard the learned counsel for the petitioners and we have perused the materials on record.

9. It is an admitted fact that the first respondent in both the writ petitions were initially appointed as postal assistant. According to them, they were promoted to the post of LSG and thereafter HSG-II, however, they were not given promotion to the post of HSG-I, whereas, their juniors got



W.P.Nos.31098, 31282 of 2019

promotion to the post of HSG-I. The first respondent in the writ petitions had retired from service in the year 2004 and 2008 and afterwards, they came to know under RTI Act that their juniors were promoted and hence, they had given representations in the year 2013 and the same were rejected by the petitioners herein.

10. Per contra, it is the contention of the petitioners that, the first respondent in both the writ petitions were not granted promotion to the feeder category of HSG-II itself and hence, they are not entitled for promotion to HSG-I. According to the petitioners, they were given only two financial upgradation under TBOP and BCR scheme and not promoted to the post of LSG and HSG-II, as claimed by them. The first respondent in the writ petitions had also not denied the factum of upgradation granted to them under TBOP and BCR scheme. Further, it is clarified in the letter dated 28.04.2005 sent by the Chief Postmaster General, Tamilnadu that, TBOP and BCR schemes are only financial upgradation and hence, no separate seniority list of TBOP/BCR officials to be maintained. The relevant portion is extracted hereunder.

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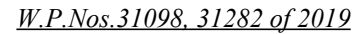


W.P.Nos.31098, 31282 of 2019

some circles regarding the status of TBOP/BCR officials and maintenance of seniority/gradation lists for such officials. It is hereby clarified that since TBOP and BCR schemes are only financial upgradations, the question of maintaining any separate seniority list of TBOP/BCR official does not arise. Seniority list will have to be drawn for officials in the specific cadres only, like PA/SA, LSG and HSG-II (norm based posts).

11. It is stoutly denied by the learned counsel for the petitioners that, the HSG-I promotion given, vide STA/2-79/2001 dated 14.09.2001 are in order, since the officials in the promotion list were subsequently promoted to HSG-II cadre on notional basis in the year 2002, as per Directorate's letter No.4-16/2002-SPB II dated 12.11.2002. All the officials promoted on 14.09.2001 were seniors to the first respondent and no juniors were promoted to the post of HSG-I as alleged by them. Further, the financial upgradation was given to PA cadre officials, but LSG cadre is a promotional cadre to PA cadre.

12. It is also the contention of the petitioners that, as per the Recruitment Rules and Directorate instructions, the first respondent in both the writ petitions are not eligible to get promotion to the post of LSG and



13. It is strongly argued by the petitioners that as per the recruitment for HSG-I, HSG-II officials with 3 years service are eligible for promotion to the cadre of HSG-I. However, the first respondent/ Subashnamoorthy (in W.P.No.31098/2019) has not completed three years of service in LSG cadre for considering for promotion to HSG-II Cadre and has superannuation on 31.01.2008; and the first respondent/ S.Ramasamy (W.P.No. 31282/2019) has not promoted to LSG till his superannuation on 08.2004. As such, since the first respondent in the writ petitions were



W.P.Nos.31098, 31282 of 2019

not promoted to the feeder cadre of HSG-II itself, till their retirement, they are not entitled to get promotion to the post of HSG-I and without satisfying the minimum requirement, as stipulated in the Recruitment Rules for HSG-I, they cannot ask for promotion to the cadre of HSG-I. Further, it is the contention of the petitioners that, taking advantage of the mistake, that had crept while printing the caption of gradation list, (viz. **instead of “ Part -II officials granted financial upgradation under BCR scheme”**, it was wrongly printed as “ Part-II officials promoted to HSG-II grade under BCR scheme”), the first respondent in the writ petitions had sought for promotion. The above contention cannot be brushed aside.

14. Apart from that, the first respondent in W.P.No.31098/2019 was retired from service on 31.01.2008 and the first respondent in W.P.No.31282/2019 was retired from service on 31.08.2004. However, they have given the representations only in the year 2013 and the same were rejected by the petitioners/Department on 11.12.2013. Thereafter, they filed the original application in the year 2019 only, seeking promotion to the post of HSG-I, on par with their juniors from the year 2001, which is affected by delay and latches. Therefore, we are of the agreement with the submission



W.P.Nos.31098, 31282 of 2019

made by the learned counsel for the petitioners that the Tribunal, without taking into consideration of the facts in proper perspective, has passed the impugned order, directing the Department to grant promotion to the first respondent, on par with their junior. As such, the order passed by the Tribunal is liable to be set aside.

15. Accordingly, the writ petition in W.P.No.31098/2019 and W.P.No.31282/2019 are allowed and the impugned order passed by the Tribunal is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.)

(P.D.B.J.)

20.11.2023

Internet: Yes/No

Index : Yes/No

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To

1. The Registrar,
Central Administrative Tribunal,

Page 12 of 14



W.P.Nos.31098, 31282 of 2019

Chennai.

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W.P.Nos.31098, 31282 of 2019

D.KRISHNAKUMAR, J.
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W.P.Nos.31282 and 31098 of 2019

20.11.2023