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SAWAN RAM MALRA
v.
UNION OF INDIA AND ORS.

SEPTEMBER 13, 1995

B

[S.C. AGRAWAL AND S.P. BHARUCHA, JJ.]

Service Law : Department of Posts, Postal Superintendent/Postmasters Group B (Recruitment) Rules, 1987:

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Department of Posts—Postal Superintendent/Postmasters Group B - 94% posts to be filled up from amongst Inspector, Post Offices and Inspector Railway Mails—6% to be filled up by means of competitive examination from amongst general Line Officials belonging to Higher Selection Grade I, Higher Selection Grade-II and Lower Selection Grade-II—General Line Official belonging to Selection Service, fulfilling eligibility conditions—Held, entitled to appear in Department competitive examination and on basis of their performance in such examination are entitled to be considered for promotion against 6% posts reserved for General Line Officials.

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In the Department of Posts, prior to 1987, there were two cadres, namely Postal Superintendent Service Group B and Postmasters Service Group B, Governed by Postal Superintendent Service Group B Posts (Recruitment) Rules 1979 and Postmasters Service Group B (Recruitment) Rules, 1986, respectively. With the enactment of Department of Posts, Postal Superintendent/Postmasters Group B Recruitment Rules, 1987, the 1979 Rules and the 1986 rules were superseded and the two cadres were merged into the cadre of Postal Superintendent/Postmasters Group B Under the 1987 Rules promotion to 94% of posts of Postal Superintendent/Postmasters Group B were made from Inspector, Post Offices and Inspector Railway Mails and to the remaining 6% posts, promotions were made by means of competitive examination from amongst general line officials, belonging to Higher Selection Grade I , Higher Selection Grade II and Lower Selection Grade II.

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In response to the Circular dated 12.8.1988, the appellant, who was employed as Head Sorting Assistant in Higher Selection Grade-II in the Railway Mail Service, applied for the appeared in the Departmental Competitive examination for 6% posts of Postal Superintendent/Postmasters

Service Group B, reserved for General Line Officials. By letter dated 14.10.1990 the result was announced and appellant's name was shown in the list of selected candidates, at serial no. 9. However, his name did not find place in the final 'merit list' containing names of 10 officers. He was informed that he being a general line official in Railway Mail Service, was not eligible for promotion against 6% posts. The appellant moved the Central Administrative Tribunal, which rejected his claim on the ground that in view of the clarifications issued by the Department by means of letters dated 30.1.1987, 9.3.1987 and 24.4.1987 only general line officials working in the post offices were eligible to participate in the Departmental Competitive examination for promotion to 6% Group 'B' Posts and the General Line Officials working in RCO/RMC/SPCO/PSD and foreign posts were not eligible. Aggrieved, the appellant filed the appeal by special leave.

Allowing the appeal, the is Court

HELD : 1.1. The appellant was entitled to be considered for promotion against the 6% posts reserved for General Line Officials, on the basis of his performance in the Departmental competitive examination held in October 1988 in which he was allowed to appear. The fact that appellant's name was added in the list of selected candidates at Serial No. 9 indicates that on the basis of his performance in the Departmental competitive examination he was selected and but for his being treated as ineligible for promotion against the 6% posts by means of the Departmental competitive examination, he would have been promoted along with others who were selected on the basis of the said examination. [614-B-C]

1.2. The Department of Posts, Postal, Superintendent/Postmasters Group B(Recruitment) Rules, 1987 govern recruitment to the combined cadre of Postal Superintendent Service Group 'B' and Postmasters Service Group 'B' while the Postmasters Group 'B' Service (Recruitment) Rules, 1986, only governed the cadre of Postmasters Service Group 'B'. In the 1986 Rules, in the matter of promotion, there was no reference to officials in the RMS. The 1987 Rules expressly include "Inspector, Railway Mails" in the matter of promotion to the 94% posts. RMS has officials falling in the General Line. There are no words of limitation in the 1987 Rules in respect of "General Line of Officials" so as to exclude General Line Officials in the RMS. If Inspectors, Railway Mails, are eligible for promo-

A tion against the 94% posts, there appears to be no reason why General Line Officials in the RMS should be excluded for the purpose of promotion to 6% posts which are to be filled by means of Departmental competitive examination. [617-D-F]

B 1.3. The clarifications contained in the letters dated January 30, 1987, March 9, 1987 and the Savingram dated April 24, 1987 which were issued in relation to the 1986 Rules cannot be treated as supplemental to the provisions contained in the 1987 Rules and on the basis of the said communications it cannot be said that General Line Officials in the RMS, including the appellant, are not eligible for promotion against the 6% posts by means of the Departmental competitive examination. [613-H, 614-A]

C 1.4. The respondents shall consider the case of the appellant for promotion to the Postal Superintendent Service Group 'B'/Postmasters Service Group 'B' against 6% posts reserved from amongst General Line Officials on the basis of the result of the Departmental competitive examination conducted in October 1988 in pursuance of the circular dated March 11, 1988. If the appellant is found entitled to such promotion on the basis of his performance in the said examination, he should be promoted with effect from the date other persons were so promoted on the basis of the result of the said examination. The appellant would be entitled to the consequential benefit accruing to him as a result of such promotion. [614-D-F]

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8235 of 1995.

E From the Judgment and Order dated 19.1.94 of the Central Administrative Tribunal Chandigarh Bench at Chandigarh in O.A. No. 407-PB of 1989.

F P.D. Sharma for the Appellant

G Ms. K. Amreshwari, Wasim A. Quadri and Mrs. Anil Katiyar for the Respondents.

The Judgment of the Court was delivered by

S.C. AGRAWAL, J. Leave granted.

H The short question which arises for consideration in this appeal is

whether the appellant is eligible for promotion to Postal Superintendents/Postmasters Group 'B' posts under the six per cent quota reserved for promotion of General Line Officials by means of Departmental competitive examination as per the Department of Posts, Postal Superintendent/Postmasters Group 'B' Recruitment Rules, 1987 [hereinafter referred to as 'the 1987 Rules']. Prior to the making of the 1987 Rules there were two services in the Department of Posts, viz., the Postal Superintendent Service Group 'B' and the Postmasters Service Group 'B' Recruitment to the Postal Superintendent Service Group 'B' was governed by the Postal Superintendent Service Group 'B' Posts (Recruitment) Rules 1979 [hereinafter referred to as 'the 1979 Rules'] and recruitment to the Postmasters Service Group 'B' was governed by the Postmasters Service Group 'B' (Recruitment) Rules, 1986 [hereinafter referred to as 'the 1986 Rules']. By the 1987 Rules the 1979 Rules and 1986 Rules were superseded and the two cadres were merged and a common cadre of Postal Superintendents/Postmasters Service Group 'B' was created and recruitment to the said common cadre is governed by the 1987 Rules. Appointment to the post of Postal Superintendent/Postmasters Group 'B' is by promotion in the following manner :

"By promotion

(1) 94% from amongst officers holding the post of Inspector, Post Offices or Inspector, Railway Mails :

(i) with 5 years' regular service in the scale of Rs. 1640-2900, including service in the scale of Rs. 2000-3200, if any or equivalent; failing which

(ii) with 8 years regular service in the scale of Rs. 1400-2300 or above or equivalent.

(2) 6% from amongst General Line of officials by means of a Departmental competitive examination amongst officers belonging to Higher Selection Grade-I (scale of pay Rs. 2000- 3200), Higher Selection Grade-II (scale of pay Rs. 1640-2900) and Lower Selection Grade (Scale of pay Rs. 1400-2300) with 5 years' regular service in either or all the 3 cadres together."

At the relevant time, the appellant was employed as Head sorting

A Assistant (HSA) in Higher Selection Grade II in the Railway Mails Service (RMS). In response to the circular dated August 12, 1988, calling for applications from eligible candidates for the Departmental competitive examination for filling up 6% posts of Postal Superintendents/Postmasters Service Group 'B' reserved for General Line Officials the appellant submitted his application. The said application was accepted and the appellant was permitted to take the Departmental competitive examination held in October 1988. Although 11 vacancies had been declared for the year 1988-89 a merit list containing names of 10 officers was issued. The same of the appellant was not included in the said list though he had secured 67% marks. He was subsequently informed that his name was not included in the merit list because General Line officials in the RMS are not eligible for promotion against 6% posts. The appellant thereupon moved the Central Administrative Tribunal [hereinafter referred to as 'the Tribunal']. The Tribunal, by the impugned judgment dated January 19, 1994, has dismissed the said application of the appellant. The Tribunal has upheld the contention urged on behalf of the respondents that in view of the clarifications issued by the Department vide letters dated January 30, 1987, March 9, 1987 and the Savingram dated April 24, 1987 only General Line Officials working in the Post Offices are eligible to participate in the Departmental competitive examination for promotion to 6% Group 'B' posts and that General Line Officials working in RLO/RAM/SPCO/PSD and foreign posts were not eligible. The Tribunal has held that the appellant was admitted to the examination by mistake overlooking those instructions. Feeling aggrieved by the said judgment of the Tribunal, the appellant has filed this appeal.

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The question is whether the clarifications contained in the letters dated January 30, 1987, March 9, 1987 and the Savingram dated April 24, 1987 can be held to be applicable to the 1987 Rules so as to render officials in RLO/RMS/SPCO/PSD ineligible for promotion against the quota of 6% posts through Departmental competitive examination. These clarifications had been issued prior to the making of the 1987 Rules, which were notified vide notification dated March 11, 1988. The clarifications in the communications referred to above were issued in relation to the 1986 Rules that were prevalent at that time which contained the following provisions regarding promotion to the post of Postmasters Service Group

H 'B' :

"Promotion

(i) 25% posts from General Line officials by means of departmental competitive examination amongst officials belonging to Higher Selection Grade (Rs.700-900) and Higher Selection Grade- II (Rs. 550-750) with 5 years regular service in either of both the grades and officials belonging to lower selection grade (Rs. 425-640) with 8 years regular service in the grade.

(ii) 75% posts from amongst the inspectors of post offices (Rs. 425-700) with 8 year regular service in the grade including the regular service in the grades of Higher Selection Grade-II (Rs 550-750) and the Higher selection Grade-I (Rs.700- 800)."

If the aforesaid provisions regarding promotion contained in the 1986 Rules are compared with the provisions of the 1987 Rules it would be noticed that there is a substantial difference in the scheme of two sets of provisions. The 1987 Rules govern recruitment to the combine cadre of Postal Superintendent Service Group 'B' and Postmasters Service Group 'B' while the 1986 Rules only governed the cadre of Postmaster Service Group 'B'. In the 1986 Rules, in the matter, of promotion, there was no reference to officials in the RMS. The 1987 Rules expressly include "Inspector, Railway Mails" in the matter of promotion to the 94% posts., RMS has officials falling the General Line There are no words of limitation in the 1987 Rules in respect of "General line of officials" so as to exclude General Line officials in the RMS. If Inspectors, Railway Mails are eligible for promotion against the 94% posts there appears to be no reason why General Line Officials in the RMS should be excluded for the purpose of promotion to 6% posts which are to be filled by means of Departmental competitive examination. On a bare reading of the provisions of the 1987 Rules all General Line Officials who belong to Higher Selection Grade-I (Scale of pay Rs. 2000-3200), Higher Selection Grade-II (scale of pay Rs. 1640-2900) and Lower Selection Grade (scale of pay Rs. 1400-2300) with 5 years' regular service in either or all the 3 cadres together are eligible to be promoted to 6% posts by means of the Departmental competitive examination. The clarifications contained in the letters dated January 30, 1987, March 9, 1987 and the Savingram dated April 24, 1987 which were issued in relation to the 1986 Rules cannot be treated as supplemental to the provisions contained in the 1987 Rules and on the basis of the said

A communications it cannot be said that General Line Officials in the RMS, including the appellant, are not eligible for promotion against the 6% posts by means of the Departmental competitive examination. We are, therefore, unable to uphold the impugned judgment of the Tribunal. The appellant, in our opinion, was entitled to be considered for promotion against the said 6% posts on the basis of his performance in the Departmental competitive examination held in October 1988 in which he was allowed to appear. By letter dated October 14, 1990 the result of the appellant for the said examination was announced and he was added in the list of selected candidates at Serial No. 9. This would show that on the basis of his performance in the Departmental competitive examination held in October 1988 the appellant was selected and but for his being treated as ineligible for promotion against the 6% posts by means of the Departmental competitive examination, he would have been promoted to those posts along with others who were selected on the basis of the said examination.

D The appeal is, therefore, allowed, the judgment and the respondents are directed to consider the case of the appellant for promotion to the Postal Superintendent Service Group 'B'/Postmasters Service Group 'B' against 6% posts reserved from amongst General Line Officials on the basis of the result of the Departmental competitive examination conducted in October 1988 in pursuance of the circular dated March 11, 1988. If the appellant is found entitled to such promotion on the basis of his performance in the said Departmental competitive examination he should be promoted with effect from the date other persons were so promoted on the basis of the result of the said examination. The appellant would be entitled to the consequential benefits accruing to him as a result of such promotion.

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The appeal is disposed of accordingly with no order as to costs.

R.P.

Appeal allowed.