

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1681/2001

New Delhi, this the 21st day of November, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Sh. Govindan S.Tampi, Member (A)

Sh. D.L.Yadav
S/o Sh. B.L.Yadav
working as Chief Postmaster
New Delhi G.P.O.
R/o Delhi, Address for service of notices
C/o Sh. Sant Lal, Advocate, C-21 (B)
New Multan Nagar, Delhi - 110 056.Applicant
(By Advocate Sh. Sant Lal)

V E R S U S

1. The Union of India, through the Secretary
M.O.Communications, Deptt. of Posts
Dak Bhawan, New Delhi - 110 001.
2. The Chief Post Master General
Delhi Circle, Meghdoot Bhawan,
New Delhi - 110 001.Respondents
(By Advocate Sh. M.M.Sudan)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

In this application, the applicant has impugned the letter issued by the respondents dated 5-3-2001 and Notification dt. 18-3-97 (Annexures A-1 & A-2). The applicant has prayed that the impugned letter and Notification should be quashed and set aside with the further directions to the respondents to pay him the emoluments/pay of the post of Asstt. Post Master General (PG) (APMG, PG) and Chief Postmaster (CPM), New Delhi, which are admittedly in the Sr. Time Scale (STS) of pay w.e.f. 1-9-99 as he had discharged the functions in those posts.

2. The brief relevant facts of the case are not disputed that by orders dt. 12-10-99 and 18-8-2000, (Annexures A-8 & A-9), respectively, the

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respondents have transferred and posted the applicant as follows :-

"2. Sh. D.L.Yadav officiating Central Dn. is transferred and posted on the post of APMG (PG) vice Sh. J.M.Chhabra transferred on the post of BD Directorate. Sh. Alok Pande, APMG (Tech) will stand relieved of the charge"

"1. Sh. D.L.Yadav, APMG (PG) Circle Office, New Delhi - 110 001 is transferred and posted as Chief Postmaster, New Delhi GPO vice Sh. M.B.Ahmed retiring on superannuation on 31-8-2000 (A.N.).

3. The relevant portion of the impugned Notification dt. 19-3-97 i.e. Rule 3 (iv) of The Indian Postal Services (Group 'A') Amendment Rules, 1997, reads as follows :-

"(iv) Posts in the Senior Time Scale which cannot be filled on account of officers with requisite years of service in Junior Time Scale not being available can also be added temporarily to the Junior Time Scale and filled up by promotion in accordance with part IV, provided that the total number of promotee officers in various grades of the service shall not, at any time, exceed 33-1/3 of the total cadre strength (excluding training reserve).

4. The Tribunal vide order dt. 3-10-2002 had, after hearing the parties, directed the respondents to bring the relevant records from which the orders dated 12-10-1999 and 18-8-2000 were issued transferring/posting the applicant to Senior Time Scale (STS) post. It was further required by the respondents to clarify the provisions of Rule 3 (iv) of the amended Rules which have been fully complied

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with, including the temporary addition to JTS post should not exceed 33 1/3 of the total cadre strength.

5. Sh. M.M.Sudan, ld. counsel has submitted, on instructions from the respondents, that the posts of APMG (PG) and CPM were not down graded at the time of posting the applicant to those posts.

6. Noting the above submissions of the ld. Sr. counsel for the respondents, when the respondents have themselves admitted that they have not passed any office order down-grading the posts of APMG and CPM from STS to JTS, we see no reason ^{how} ~~why~~ they can legally deny the applicant the pay of the higher posts as it is not disputed that he has discharged the responsibilities and duties of the higher posts during ^{the} ~~the~~ period from 1-9-99 till ^{the} ~~date~~ of his superannuation i.e. 31-5-2002.

7. Ld. counsel for the applicant has also relied on the judgements of the Hon'ble Supreme Court and of the Tribunal referred to in the rejoinder, which we find ^{are} ~~are~~ also fully applicable to the facts of this case.

8. In the facts and circumstances of the case, OA is allowed applying the principles of equal pay for equal work. The respondents are directed to pay the emoluments/pay of the post of APMG (PG) and CPM w.e.f. 1-9-99 and w.e.f. 30-9-2000, till the date of his superannuation from service i.e. 31-5-2002. Accordingly the respondents shall also revise his retiral benefits due to him in accordance with law rules and instructions. Necessary action shall be taken by the respondents within three months from the

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date of receipt of a copy of this order, including payment of difference of pay and allowances and retiral benefits due to them. No order as to costs.

(Govindan S. Tampi)
Member (A)

/vksn/

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)