

Central Administrative Tribunal, Principal Bench
New Delhi

O.A. No.2683/2001

New Delhi this the 5th day of March, 2002

Hon'ble Smt. Lakshmi Swaminathan Vice Chairman (J)
Hon'ble Mr. M. P. Singh, Member (A)

Shri Surender Kumar Sharma,
S/o Shri Braham Dutt Sharma,
working as Hindi Typist in the O/o the
Sr. Supdt. of Post Offices, Ghaziabad Division,
R/o Ghaziabad, Address for service of notices,
C/o Shri Sant Lal, Advocate, C-21(B) New Multan
Nagar, Delhi-110056.

- Applicant
(By Advocate : Shri Sant Lal)

Versus

1. The Union of India, through the Secretary, Ministry of Communications, Dept. of Posts, Dak Bhawan, Nw Delhi-110001.
2. The Postmaster General Bareilly Region, Bareilly.
3. The Sr. Supdt. of Post Offices, Ghaziabad Division, Ghaziabad-201002.
4. The Sr. Postmaster, Ghaziabad H.O., Ghaziabad-201001.

- Respondents
(By Advocate Shri Rajiv Sharma, learned proxy
counsel for Shri M.M. Sudan.)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

In this application, the applicant is aggrieved by the pay certificate dated Nil issued by the respondents (Annexure A-1).

2. We have heard Shri Sant Lal, learned counsel for applicant and Shri Rajiv Sharma, learned proxy counsel for Shri M.M. Sudan, learned counsel for respondents and perused the documents on record.
3. One of the ground taken by Shri Sant Lal, learned counsel is that the aforesaid pay certificate (Annexure

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A-1) issued by the respondents has been issued in utter violation of the principles of natural justice without even giving a show-cause notice. This has not been denied by learned proxy counsel for respondents. According to the reply filed by respondents, they have taken a policy decision, with the concurrence of the Ministry of Finance, on the subject regarding pay scale of Hindi Typists in their Department by letter dated 5.1.1999. In this letter, they have stated that the pay scale of Hindi Typists is to be placed in the revised scale of Rs.3200-4900 instead of Rs.4000-6000.

4. We note from the document placed on record by the learned counsel for applicant that in three applications (OA No.20/1999, OA No.21/1999 and OA No.22/1999) filed before the Jodhpur Bench of the Tribunal, which were disposed of by order dated 21.8.2000, the aforesaid letter issued by the respondents dated 5.1.1999 had been quashed and set aside. There were further directions that the applicants in those OAs would continue to draw their pay in the scale of Rs.4000-6000 and, if any, recovery has been made in pursuance of order dated 5.1.1999, the same shall be refunded to the applicants with interest @ 12 per cent per annum compounded annually. A Civil Writ Petition No.4830/2000 filed by the respondents challenging the aforesaid order of the Tribunal dated 21.8.2000 before the Hon'ble Rajasthan High Court at Jodhpur was dismissed by the order dated 4.1.2002, upholding the order of the Tribunal (Jodhpur Bench) dated 21.8.2000.

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5. It is not the case of the respondents that the aforesaid orders of the Tribunal (Jodhpur Bench) as well as Hon'ble Rajasthan High Court have not become final and binding. Therefore, in the circumstances of the case, it would have been the duty of the respondents to correct the impugned order dated Nil, in case that had been passed earlier in accordance with the aforesaid orders of the Rajasthan High Court upholding the order of the Tribunal, which they have failed to do. Even in the reply filed by the respondents in November and December 2001, they have ignored the aforesaid orders of the Court/Tribunal which stand cannot also be appreciated, by merely stating that it is a matter of record. This also shows lack of application of mind when the order which they are relying upon, namely, their policy decision dated 5.1.1999 has been specifically quashed and set aside by the Tribunal's order dated 21.8.2000 which has been upheld by the Hon'ble Rajasthan High Court. This is one of the classic cases where the respondents have unnecessarily driven the applicant to file the present application and thereafter dragged, the litigation further by filing a reply, contrary to settled law. The Hon'ble Supreme Court in a catena of judgements have deprecated this fact that the Union of India are the biggest litigants in the country and by prolonging the litigation unnecessarily it does not serve any purpose and is against public interest.

6. In the facts and circumstances of the case, following the aforesaid judgement of the Rajasthan High Court and the Tribunal dated 4.1.2001 and 21.8.2000, respectively,

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the impugned pay certificate (Annexure A-1) is quashed and set aside both on merit as well as on the ground of violation of the principles of natural justice. The OA, accordingly, succeeds and is allowed. The applicant shall be entitled to all consequential benefits as granted to the applicants before the Jodhpur Bench of the Tribunal as ordered in paragraph 9 of the order dated 21.8.2000. This shall be done within one month from the date of receipt of a copy of this order. In the above facts and circumstances of the case, cost of Rs.1000/- (Rupees One Thousand only) is imposed against the respondents and in favour of the applicant.

7. Let a copy of this order be issued by name to the Secretary, Department of Posts, Dak Bhawan, New Delhi, to avoid such infructuous litigations in future in public interest.

M.P. Singh
(M.P. Singh)
Member(A)

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

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