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Central Administrative Tribunal
Principal Bench

O.A.No.403/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 14th day of October, 1998

D.Ramaraju
Retired Asstt. Postmaster General (V&I)
and Estate Officer
Delhi Circle
R/o Quarter No.UD-1
P&T Colony, Dev Nagar
New Delhi - 110 005. ... Applicant

(By Shri M.K.Gupta, Advocate)

Vs.

1. Union of India through
Secretary
Department of Post
Ministry of Communications
Dak Bhawan
Sansad Marg
New Delhi - 110 001.

2. Chief Postmaster General
Delhi Circle
Meghdoot Bhawan
New Delhi - 110 001. ... Respondents

(By Shri K.C.D.Gangwani, Advocate)

O R D E R.

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant had initially joined service as an Assistant on 25.11.1958 in the Department of Posts. On promotion to the Postal Superintendent Service Group 'B', he was allotted to Delhi Circle and joined as Senior Post Master, Lodi Road, New Delhi on 16.3.1988. He was given ad hoc promotion to the Indian Postal Service Group 'A' in the Junior Time Scale (JTS) w.e.f. 31.12.1990 and posted as Senior Superintendent of Post Offices, Delhi East Division w.e.f. 31.12.1990. The applicant submits that he was posted as Superintendent, Railway Mail Service (RMS), Delhi Sorting Division a post in Indian Postal Service Group 'A' w.e.f. 14.2.1992 and worked as such till 8.4.1992. However, he was allowed to draw pay

only in the Junior Time Scale. Subsequently, the applicant was appointed as an Assistant Post Master General (Vigilance & Investigation) which is also a Senior Time Scale, Group 'A' post w.e.f. 8.4.1992 and continued to hold that post till his superannuation on 31.7.1996. His grievance is that though he held a Senior Time Scale (STS) post he was not allowed the pay of the post and the representation submitted by him has been rejected by the impugned order dated 15/20-9-1997 at Annexure A1.

2. The respondents in their reply have pointed out that the applicant was promoted to the Junior Time Scale of Indian Postal Group 'A' on purely temporary and ad hoc basis by order dated 31.12.1990. The appointment to Junior Time Scale on a regular basis only came through order, Annexure RII w.e.f. 31.10.1995. Appointment to Senior Time Scale (STS) has to be made by promotion of officers in the Junior Time Scale (JTS) with four years regular service in that grade in the order of seniority provided that officers of Indian Postal Service Group 'B' on the approved list for promotion to the JTS who have rendered not less than 7 years total approved service in Group 'B' may also be appointed to such posts in an officiating capacity on the basis of seniority as a purely temporary measure. The case of the respondents is that the applicant having been appointed on regular basis to JTS in 1995, did not have the requisite four years regular service in that grade, nor did he have the requisite 7 years minimum service in Postal Service Group 'B'. For this reason, he could not be granted STS. They have further stated that the orders passed for his posting clearly stipulated that he will be allowed only

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Junior Time Scale pay; if the applicant had any reservation in accepting this condition, he should have taken up the matter then and there. According to the respondents, the claim of the applicant is now, in any case, time barred.

3. Shri M.K.Gupta, learned counsel for the applicant arguing before us has relied on the orders of this Tribunal in OA No.1867/96 in which one Shri O.C.Mangal who was similarly placed as the applicant but was in fact junior to him in Group 'B' Service was allowed the pay in the STS on the principal of 'Equal Pay for Equal Work'. The learned counsel for the applicant pointed out that the respondents had implemented the orders of this Tribunal vide their communication dated 8.7.1997, copy at Annexure A16. Hence this having been done in respect of the junior to the applicant, the applicant was also entitled to the same benefit. Reliance was placed on the orders of this Tribunal in OA No.299/90 decided on 17.12.1990 (E.M.Raghava Kurup & Another Vs. Union of India & Others). A copy of the order has been placed at Annexure A20.

4. It is true as contended by the learned counsel for the respondents, that the orders of this Tribunal in OA No.1867/96 stipulated that while the applicant therein was entitled to the relief in the facts and circumstances of that particular case, the decision was not to be treated as a precedent. Nevertheless, as the facts and circumstances in the present case are also identical, and the applicant herein was even senior to Shri O.C.Mangal, we consider ourselves bound by the ratio of the judgment of the coordinate Bench. Admittedly, the applicant had

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worked on a post included in the Senior Time Scale of the Indian Postal Service, Group 'A'. We do not agree with the learned counsel for the respondents that for the duration of the period the applicant held the post of APMG (Vigilance & Investigation), the said post was down graded to the Junior Time Scale of IPC Group 'A'. For this he relies on the language of the orders of posting of the applicant contained in Memo. No.STAFF/50-2/XI dated 26.2.1992, Annexure A8, issued from the Office of Chief Postmaster General, Delhi Circle. This reads as follows:

Para 2: " Shri D.Ramaraju presently officiating in Jr. Time Scale of IPS Group 'A' on ad hoc basis as SSRM, Delhi Sorting Dn. is posted as APMG (Vig & Inv) Circle Office. He will continue to be in Jr. Time Scale of IPS Group 'A'.

..... S/Sh. D.Ramaraju, Bahadur Singh Chauhan and Prakash Ch. Chowmick will clearly understand that they will not claim any extra remuneration for posting against higher post."

(Emphasis supplied)

5. The above orders regarding the drawal of pay in the Junior Time Scale by the applicant is not an order down grading the post from Senior Time Scale to Junior Time Scale. On the other hand, the applicant has alleged and the same has not been rebutted by the respondents that while the applicant was on medical leave in 1994, a Junior Time Scale officer of the Indian Postal Officer who officiated against the same post of APMG was granted the Senior Time Scale. Obviously, there was no order down grading post of Assistant Post Master General from STS to JTS. The respondents have also not shown any specific order by which the pay of the applicant could be restricted ^{to} JTS while discharging higher responsibilities. We also find that in a similar case decided as far back as in 1990 in OA No.299/90 (Annexure A20) directions were

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
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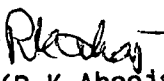
given that officers of Group 'B' service holding Senior Time Scale post will be entitled to pay and allowances in the pay scale attached to the post so long as they hold that post.

6. We also reject the respondents contention that the case of the applicant is time barred. The applicant had come before this Tribunal in OA No.1495/96. By order dated 19.9.1996 the respondents were directed to dispose of the representation made by the applicant by a detailed and reasoned speaking order. The applicant has now come before us against the decision on his representation. We find therefore that his case is not time barred.

7. In the result the OA is allowed. The respondents are directed to pay the emoluments of the Post of Assistant Post Master General (Vigilance & Investigations) to the applicant for the period 1994 to the date of his superannuation after deducting the emoluments already drawn, on the principle of 'Equal Pay for Equal Work'. His retiral benefits would also be determined on that basis and arrears of pay as well as pensionary benefits shall be paid to him within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.


(K.M. Agarwal)
Chairman


(R.K. Ahooja)
Member (A)

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