

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1543/95

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)
HON'BLE SHRI RAFIQ UDDIN, MEMBER (J)

New Delhi, this the 8th day of October, 1999

Shri Hemant Kumar Jain
S/o Late L. Mehar Chand Jain
2257, Gali Anar
Dariba Kalan, Delhi

...Applicant

(By Advocate: Shri M.S. Dutta)

Versus

1. The Comptroller & Auditor General
of India (C&AG of India)
Bahadurshah Zafar Marg
New Delhi
2. Principal Director of Audit
Northern Railway
Baroda House, New Delhi Respondents

(By Advocate: Shri S. Mohd. Arif)

O R D E R

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

The facts of the case may be briefly stated. The applicant who joined the office of the Northern Railway as Upper Division Clerk, was promoted as Senior Audit Officer with effect from 1.10.1988 in the pay scale of Rs.2200-4000. He retired from this post on attaining the age of superannuation. On his retirement he was drawing the pay of Rs.4000/- p.m. The applicant states that there were 35 posts of Sr. Audit Officers/Audit Officers under Principal Director of Audit, out of which three posts were sanctioned for the following three Sections:-

- (i) Central (Coordination) Section;
- (ii) Special Investigation Section; and
- (iii) Special/Central Reviews.

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2. The applicant submits that in August, 1989 he was given charge of Senior Audit Officer, Central (Coordination) Section. In addition, he was given the additional charge of Efficiency-cum-Performance Audit. Since 1.1.1986 he was also dealing with court cases which should normally be the part of the duties of the Senior Audit Officer(Administration). In December, 1990 a new Section, namely "Report-II Section" was formed and in November, 1991 the applicant was also entrusted with its full additional charge. As a result the applicant had full additional charge of three Senior Audit Officer/Audit Officer having entirely different functions from November, 1991 to 31.8.1994, i.e. till the date of his retirement. He points out that whenever he went on leave, his work was assigned to two or more Audit Officers and even after his retirement the work has been redistributed amongst more than one officer. The applicant submits that he was on the basis of the additional duties performed by him entitled to additional pay but the respondents rejected his representation. He has now come before the Tribunal seeking a direction to pay additional pay with all consequential benefits.

3. The claim of the applicant is denied by the respondents.

4. We have heard the counsel. It was assiduously argued on behalf of the applicant that the applicant was entitled to the additional pay since the applicant was admittedly discharging duties for which separate posts had been created. Furthermore, no orders were issued that the applicant will not be entitled to additional remuneration on account of discharge of additional duties. Our attention was also drawn to the guide-lines given in Govt. of India, Department of Personnel & Training O.M. dated 11.8.1989 under FR 49 (Annexure A-12) which lays down as

"When an officer is required to discharge all the duties of the other post including the statutory functions, e.g., exercise of power derived from Acts of Parliament such as Income Tax Act or the Rules, Regulations, By-Laws made under various articles of Constitution such as FRs., CCS(CCA) Rules, CSRs., DFPRs., etc., then steps should be taken to process the case for getting the approval of the competent authority and formal orders appointing the officer to the additional post should be issued. On appointment, the officer should be allowed the additional remuneration as indicated in F.R. 49."

5. The learned counsel for the applicant Shri Dutta also drew our attention to the various orders at Annexure A-4 to A-8 whereby additional work was assigned to the applicant and also other annexures whereby duties assigned to the applicant were redistributed amongst various officers as and when the applicant went on leave and also when the applicant retired from service.

6. We have carefully considered the pleadings on record and the submissions made by the learned counsel. We are, however, unable to agree with the contentions of the applicant for three reasons. It is the claim of the respondents and the same has not been rebutted by the applicant that there were only 35 posts of Senior Audit Officer/Audit Officers which had been sanctioned and at the time the applicant claims to have discharged additional duties, all the 35 posts were manned and filled up. In this situation no claim can be raised that the applicant was holding the full charge of another post. On the contrary, this fact adds strength to the contention of the respondents that the additional work which the applicant has referred to was only a matter of redistribution of

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duties and not of holding charge of an additional post. Secondly, as per FR 49(ii) a Govt. servant who holds the charge of two posts in the same cadre and in the same office carrying identical scales of pay is not entitled to additional pay irrespective of the period of dual charge. Even on the applicant's own submission, he was holding the additional charge of identical posts of Senior Audit Officer under the Principal Director of Audit and was thus under FR 46(ii), not entitled to claim additional pay. Thirdly, we also find that though the applicant claims that he held additional charge of three other posts during the period 1991 to 1994, he made his first representation only on 8.8.1994, i.e. only three weeks prior to the date of his superannuation. The applicant who was a Senior Audit Officer himself, would certainly have made a claim in time if he was entrusted with such a heavy work of three other posts from 1991 onwards immediately and not later. For the aforesaid reasons, we do not consider that the applicant can claim additional pay at this stage.

7. It was lastly contended by Shri Dutta that in terms of the above quoted instruction of the Govt. of India, additional pay is admissible wherever the officer holding additional charge is required to discharge the statutory functions of the post and such statutory functions include functions under the CCS Rules, including grant of leave to staff, postings and transfers, distribution of work, etc.. We do not consider that this question arises at all and we find that the applicant has not been able to show that there were any posts vacant and there was a shortage of officers against the sanctioned posts which led to his holding additional charges. Thus, even though the applicant might have been burdened with

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more work, vis-a-vis his colleagues on account of his efficiency, that cannot by itself imply that he was holding additional posts which entitled him to additional pay.

8. In the result, the O.A. is dismissed. There will be no order as to costs.

Rafiquddin
(RAFIQ UDDIN)
MEMBER (J)

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (a)

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