

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 961/2000

(6)

New Delhi this the 91 day of January, 2000

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Shri Subhash Chander-III,
S/o Shri Devan Chand
Working as Asstt. Director Postal Service (MO)
in the O/O the Chief Postmaster General Delhi
Circle, New Delhi.
R/o Delhi-53. ... Applicant
(By Advocate : Shri Sant Lal)

VERSUS

1. Union of India through
The Secretary,
Ministry of Communications, Deptt. of Posts,
Dak Bhawan,
New Delhi : 110 001
2. The Chief Postmaster General Delhi Circle,
Meghdoot Bhawan,
New Delhi.
3. The Director of Accounts (Postal)
Civil Lines, Delhi
Delhi-110054. ... Respondents
(By Advocate : Shri J.B. Mudgil)

O R D E R

Shri S.A.T. Rizvi, Member (A) :

The applicant in this OA is aggrieved by the fixation of his pay as reflected in the revised pay slip issued by the Director of Accounts (Postal) Delhi on 7.1.1999 (Annexure A-1). By way of relief, the applicant seeks setting aside of the aforesaid pay slip by which his pay in P.S. Group 'B' has been wrongly fixed by relying on the presumptive pay drawn by the applicant as Asstt. Supdt. (RMS). His contention is that his pay should be fixed in the P.S. Group 'B' grade with reference to the pay drawn by him in the HSG-I grade in which he was working when promoted to the P.S Group 'B' grade. The facts of the case briefly stated are the following.

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2. The applicant was promoted to the HSG-I Grade in the pay scale of Rs.2000-3200 on temporary and ad-hoc basis. The applicant joined his post in that Grade on 21.5.1994. While working on the aforesaid post in the HSG-I Grade, the applicant was promoted further to the P.S. Group 'B' again on temporary and ad-hoc basis with immediate effect vide order dated 15.12.1995 issued by Respondent No.2/. Having been placed in the aforesaid P.S. Group 'B' Grade, the applicant was posted as Senior Post Master, which post he joined on 20.12.1995. Later by an application dated 23.1.1996, the applicant requested Respondent No.2 to regularise his promotion to the HSG-I Grade with effect from 3.11.1995 i.e. the date on which two posts in that grade fell vacant. However, no order was issued in response thereto and later by an order dated 4.7.1996 the applicant was appointed in the HSG-I Grade on regular basis with immediate effect and not from the date from which the posts in that Grade had fallen vacant.

3. The applicant submitted his option for pay fixation in the HSG-I Grade with effect from 1.12.1994 i.e. after getting his increment in the lower post of Asstt. Supdt. (RMS). The said application dated 15.7.1996 was filed by the applicant as required within the prescribed period of one month from the date of issuance of the order of regular appointment in the HSG-I Grade. He filed another application dated 6.8.1996 requesting the Respondents to consider his case for regular appointment in the HSG-I Grade with effect from 3.11.1995 instead of 4.7.1996, reiterating that

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posts in that Grade had fallen vacant with effect from 3.11.1995 and that the applicant had been working in that same Grade since 21.5.1994 without any break until promoted to the Grade of P.S. Group 'B'. The applicant contends that he has been discriminated against inasmuch as in the case of one Smt. Veena Kapoor and two other Stenographers of Delhi Circle, promotion was given on regular basis from the date of occurrence of vacancy.

4. While working as Asstt. Supdt. (RMS), the applicant was drawing pay at the stage of Rs.2750 in the pay scale of Rs.1640-2900. When he was promoted to the HSG-I Grade (Rs.2000 - 3200) his pay was fixed at the stage of Rs.2900/- under FR 22 (I)(a)(i). Since he earned his annual increment in the previous scale of Rs. 1640-2900 with effect from 1.12.1994, his pay was re-fixed at the stage of Rs. 2975 with effect from 1.12.1994 in the scale of Rs. 2000-3200 (HSG-I Grade). This was done in accordance with the option exercised by the applicant and the date of his next increment was to be 1st December, 1995. On his promotion to P.S. Group 'B' Grade his pay in the relevant scale (Rs.2000-3500) was fixed at the stage of Rs.3200 under the same provision of FR. This fixation was based on the pay being drawn by him in the HSG-I Grade. However, subsequently the same was reduced and re-fixed at the stage of Rs. 3050 with reference to the pay of the applicant in the substantive post of Asstt. Supdt. (RMS), which he would have held had he not been promoted to the Grade of HSG-I. The applicant has since been regularised in the P.S. Group 'B' also vide order dated 10.3.1997.

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The relevant posting was given to him by Order dated 21.5.1997. He has represented against the aforesaid fixation of his pay at the reduced stage of Rs.3050 without any response from the Respondents. (9)

5. The applicant has contended that by the fixation of pay as aforesaid, his pay has actually been reduced in arbitrary manner resulting in recovery of alleged over-payment without any opportunity having been given to him to show-cause in the matter. Following his promotion from the HSG-I Grade to the P.S. Group 'B' grade, he had duly exercised his option in accordance with the Standing Orders of the Govt. and in accordance with the provisions of FR 22. According to him, earlier his pay had been correctly fixed and it is only subsequently that it has been reduced by the Respondent No.3 as stated above. The aforesaid action on the part of Respondent No.3 has resulted in discrimination against the applicant.

6. The learned counsel for the applicant has claimed that the facts and circumstances of this OA are similar to the facts and circumstances of OA No. 786/1999, which has been decided by the Co-ordinate Bench of this Tribunal by its order dated 13.11.2000. The learned counsel for the respondents has agreed that the aforesaid decision dated 13.11.2000 fully covers the present OA. Thus, both have agreed that the present OA can be disposed of in terms of the decision taken in OA No. 786/1999. A copy of the aforesaid order of this Tribunal has been placed on record. (2)

7. On perusal of the aforesaid order of the Co-ordinate Bench of this Tribunal, we find that in that case the Tribunal had decided that the pay of the applicant in the P.S. Group 'B' should be fixed by reference to the pay drawn by him in the HSG-I Grade and not by relying on the pay drawn in the still lower (substantive) Grade of Assistant Supdt. (RMS). In that case as well as in the present OA the applicants were regularised in the HSG-I Grade and P.S. Group 'B'. We have, therefore, no hesitation in holding that in the present OA also the pay of the applicant in the PS Group 'B' should be fixed by a reference to the pay drawn by him in the HSG-I Grade and in accordance with the option exercised by him under the rules. We order accordingly.

8. In relation to the claim of the applicant that he should be regularised in the HSG-I Grade with effect from 3.11.1995 instead of from 4.7.1996, the respondents have not given a categorical reply beyond merely saying that the cases of Smt. Veena Kapoor and others referred to by the applicant do not apply in this case. We are not satisfied with this bald statement made by the respondents. Since the applicant has alleged discrimination, we have no hesitation in holding that the applicant should be regularised in the HSG-I Grade with effect from 3.11.1995 on which date vacancies admittedly already existed in that grade. We order accordingly.

9. Having passed orders as in paragraphs 7 and 8 above we also find it proper to direct the Respondents to grant all the consequential benefits including

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arrears of pay and allowances to the applicant and also to refund such amounts as might have been recovered from the applicant on account of wrong fixation of pay.

10. We also direct the respondents to comply with our orders contained in Paras 7 and 8 and also with our direction contained in the above para 9 as expeditiously as possible and, in any event, in a period of 3 months from the date of receipt of a copy of this order.

11. The present OA is allowed and is disposed of in aforesated terms. No costs.




(ASHOK AGARWAL)
CHAIRMAN



(S.A.T. RIZVI)
MEMBER (A)

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