

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/294/2020

HYDERABAD, this the 26th day of August, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



K. Venkata Reddy, Gr. B,
S/o. K. Venkata Rami Reddy,
Aged about 59 years,
Occ: ASPOs,
Anantapuram Division,
Anantapuram – 515 001,
Anantapuram District, A.P.

... Applicant

(By Advocate: Mr. B. Gurudas)

Vs.

1. Union of India rep. by its
Secretary, MoC & IT,
Department of Post,
Dak Sadan, Sansad Marg,
New Delhi – 110 001.
2. The Chief Postmaster General,
Andhra Pradesh Circle,
Vijayawada – 520 013,
Krishna District, A.P.
3. The Post Master General,
Kurnool Region,
Kurnool – 518 002, AP.
4. Sri M. Adinarayana,
Aged about 58 years,
Occ: Supdt. of Post Offices,
Anantapuram Dn,
Anantapur – 515 001.
5. The Post Master,
Head Post Office,
Anantapur – 515 001.

6. Smt. Geetha Vani,
Aged about 47 years,
Occ: Accountant,
O/o. Supdt. of POs,
Anantapur – 515 001.



7. Sri N. Nagamahesh,
Aged about 44 years,
Occ: Accountant,
Head Post Office,
Anantapur HO – 515 001.

... Respondents

(By Advocate: Mrs. K.Rajitha, Sr. CGSC)

ORDER (ORAL)

[Hon'ble Mr. B.V. Sudhakar, Admn. Member]


Through Video Conferencing:

2. The OA is filed challenging the order of Superintendent of Post Offices, Anantapuram dt. 09.03.2020 in regard to pay fixation.

3. Brief facts of the case are that the Department of Posts, vide letter dt. 24.10.2017 has granted Grade Pay of Rs.4600/- (PB-2) corresponding to the pre-revised scale of Rs.7450-11500/- to the Inspector posts from 01.01.2006 in pursuance of Para 7.6.14 of CPC report of VI CPC report. As per Note 2A under Rule 7(1)(A)(i) & (ii) of CCS (Revised Pay) Rules, 2008 (for short "**Rules 2008**"), the pay of the applicant was correctly fixed by Postmaster Anantapur in May 2019 as Rs.19,760/- w.e.f. 01.01.2006. Arrears of pay were also drawn and paid to the applicant. Further, it was stated in para 2(ii) of MOF/DOE OM dt. 30.08.2008 (Annexure VI) that in case of upgradation of Posts and merger of pre-revised scales, fixation of pay will be done as prescribed in Note 2A and 2B, below Rule

7(1) and in the manner indicated in Illustration 4A and 4B of the Explanatory Memorandum to the Rules 2008. The cases of fixation of pay either on revision of pay or promotion will be checked by the GM (Finance), Vijayawada and he is only competent to order any recovery if there is any anomaly in fixing the pay of the applicant. However, the Superintendent of Post Offices, Anantapur has modified the pay of the applicant as Rs.17,140/- w.e.f. 01.01.2006 resulting in reduction of Rs.9800/- in Basic Pay. The total difference of pay was arrived at Rs.6,12,512/- and recovery of an amount of Rs.30,000/- is being made from March 2020 onwards, according to the applicant. Aggrieved over this, the OA has been filed.

4. The contentions of the applicant are that the Postmaster, Anantapur fixed the pay of the applicant correctly as per OM dated 30.08.2008 (Annexure A-VI) and the Rule 7 of the Rules 2008 and even arrears had been drawn and paid. The action of the respondents in revising the pay of the applicant to his disadvantage and unilaterally recovering huge amount from him is illegal and against the rules. The applicant was granted MACP-II (ACP-II) with Grade Pay of Rs.4600/- from 08.02.2007 and MACP-III in Level 9 from 01.04.2017 prior to upgradation and now, they are to be implemented in the corresponding Grade Pay of Rs.4800/- and Pay Level-10 respectively from the above due dates. They are not being implemented though the orders are clear. The procedure followed by the respondents in revising the pay is applicable to fresh recruits appointed on or after 01.01.2006 and not to the applicant who was appointed earlier to this date. The re-fixation of the pay is against Rule 8 of the Rules 2008. The order of recovery has to be made by the General Manager (Finance), Vijayawada and not by any other authority. The bunching pay benefit was provided in Rule 7 of Rules 2008 and the pay of the applicant is to be fixed as per the Note 2A in the manner prescribed in



accordance with Clause A(i) and (ii) of Rule 7 of Rules 2008. As per OM dated 30.08.2000 (Annexure VI) mentioned above, the pay of the applicant has to be fixed as per the fitment tables, which will not apply to cases where pay scale was upgraded and pay scales were merged, creating notional scale. Pay fixation in such cases has to be fixed under Rule 7 of Rules 2008 as per para 2 (ii) of the said OM dt. 30.08.2008. The Superintendent of Post Offices, Anantapur is not the competent authority to revise the pay. Similarly situated officers of the Department of Posts, on approaching the Hon'ble Benches of this Tribunal viz., Jaipur Bench in OA No. 141/2012, the respondents therein were directed to grant the bunching benefit to them. Subsequently, the orders of the Hon'ble Jaipur Bench of this Tribunal were followed by the Jodhpur Bench of this Tribunal in OA 136/2014 vide order dt. 28.09.2016; by Ernakulam Bench in OA No. 279/2018 vide order dt. 19.12.2018 and by Guwahati Bench in OA No. 314/2018, vide order dt. 14.09.2018. Thus, the applicant's case is squarely covered by the above judgments. Therefore, the applicant being similarly situated, is eligible for bunching benefit.

5. The respondents have filed their reply statement wherein they stated that the revision was necessitated as per the relevant rules on the subject. The earlier fixation in a higher scale was done after taking an undertaking from the applicant stating that in the event if his pay is found to be contrary to the provisions contained in the relevant rules, then the excess payment made shall have to be refunded by him to the Government. In a similar case, pertaining to Sri B. Narayanaswamy, Retd. Asst. Superintendent of Post Offices, who retired on 31.12.2017, the pay had to be re-fixed keeping in view the bunching of the increment in pre-revised scale. The revision had to be done in view of the

objections taken by the Director of Accounts (Postal), Hyderabad. It is true that finance matters of the newly formed A.P. Postal Circle are being looked into by the General Manager (Finance), Hyderabad. Orders of the Director of Accounts (Postal) Hyderabad were followed. Consequently, the revision of the pay had to be done and a sum of Rs.12,02,447/- was found to be excess pay of the applicant for the period from 01/2006 to 02/2020 and an amount of Rs.30,000/- was recovered from the pay and allowances of the applicant for March 2020 and his pay has been reduced from Rs.87,700/- to Rs.77,900/-. The respondents have also submitted that, as per the Directorate letter dt. 03.07.2020, a proposal regarding admissibility of pay scale from Rs.4200/- to that of Rs.4600/- w.e.f. 01.01.2006 or otherwise has been submitted to the Ministry of Finance, Department of Expenditure vide ID Note dated 24.12.2019. The same is under examination with the Department of Expenditure. Therefore, the action taken by the respondents in reducing the pay of the applicant and ordering recovery is in accordance with the prevalent norms.

6. Heard both the counsel and perused the pleadings on record.
7. The issue is in regard to pay fixation of the applicant as per Rules 2008 and also in accordance with the recommendations of the VI CPC. The matter has already been dealt with by different Benches of this Tribunal as referred to supra. The order of Ernakulam Bench of this Tribunal, vide order dt. 19.10.2011 in OA NO. 381/2010, in regard to the same issue is as under:

“33. Thus, within the parameters prescribed by the Apex Court in respect of the powers of the Tribunal in dealing with the fixation of pay scale the case has been considered and the Tribunal is of the considered view that there is no justification in denying the Inspector (Posts) the higher Grade Pay of Rs.4600/- when the same is admissible to Inspector of other Department with whom parity has been established by the very Sixth Pay Commission vide its report at para 7.6.14 extracted above. The Department of Post also equally recommends the same and as such, at appropriate level, the Ministry of Finance has to have a re-look in the matter dispassionately

and keeping in view the aforesaid discussion. The ASPOs, as a result can be granted a grade pay of Rs.4800/- and the Superintendents grade pay of Rs.5400/-, as in the case of Superintendents of Central Excise & Customs.

34. *In view of the above, the OA is allowed to the extent that keeping in tune with the observations of the Sixty Pay Commission, coupled with the strong recommendations of the Department of Post and also in the light of our discussion as above, first respondent, i.e., the Ministry of Finance shall have relook in the matter at the level of Secretary and consider the case of the Inspector (Posts) for upgradation of their grade pay at par with that of the Inspector of Income Tax, of CBDT and CBEC. This will make the grade pay of Inspector (Posts) at par with that of the promotional post of Assistant Superintendents of Post Offices, it is expedient to consider and upward revision of the grade pay of ASPs as well. All the necessary details and statistics as required by the Ministry of Finance shall be made available by the second Respondent i.e. the Director General of Posts. It is expected that within a reasonable time, the respondents shall arrive at a judicious decision and implement the same.”*



Respondents, admittedly have submitted in their reply that the matter is under examination of the Ministry of Finance. Once clarification is received from the Ministry, the pay fixation of the applicant shall be regulated accordingly. Till a decision is communicated by the Ministry of Finance, the respondents shall regulate the pay/pension as per reduced pay fixed as per impugned order under reference, but there shall not be any recovery from the pay or pension of the applicant. Learned counsel for the respondents submitted that the applicant is going to retire shortly and therefore, recovery thereafter would become difficult. However, her contention is unfair for the reason that the Ministry of Finance is examining the issue and that too, in accordance with the judgment of the Ernakulam Bench of this Tribunal referred to above.

Further the order of recovery attracts the provisions laid down in Rafiq Masih case by the Hon'ble Supreme Court. Therefore, we are unable to accept the contention of the learned counsel for the respondents to allow the recovery and await the decision of the Ministry of Finance. The respondents shall regulate the pay/pension of the applicant as prayed for, based on the decision taken by the

Ministry of Finance in the matter. Bunching benefit as sought by the applicant shall be contingent on the decision of the Ministry of Finance.

With the above direction, OA is accordingly disposed of. No order as to costs.



(B.V. SUDHAKAR)
MEMBER (ADMN.)

(ASHISH KALIA)
MEMBER (JUDL.)

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