

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.646/93

New Delhi this the 4th Day of August, 1995.

Hon'ble Shri B.K. Singh, Member(A)

Shri Sohan Singh Joshi,
S/o late Sh. Bishan Singh Joshi,
C/o Sh. Sant Lal Advocate,
C-21(B) New Multan Nagar,
Delhi-56. Applicant

(through Sh. Sant Lal, advocate)

versus

1. The Union of India,
through the Secretary,
Ministry of Communications,
Department of Posts,
Dal Bhawan,
New Delhi-1.
2. The Chief Postmaster General,
Delhi Circle,
Meghdoot Bhawan,
New Delhi-1.
3. The Chief Postmaster,
G.P.O., New Delhi,
New Delhi-1. Respondents

(None for the respondents)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

O.A.No.646/93 has been filed against
non-implementation of the instructions contained in
letter dated 22.3.1989 filed as Annexure A-5.

The applicant made several representations
but the same were rejected by the respondents.
Aggrieved by the rejection of his representations for
stepping up of his pay on par with those of his
juniors, this application was filed on 15.3.1993.

The reliefs prayed for are:-

- (i) To quash the impugned order;

(ii) To direct the respondents to step up the pay of the applicant to the level of his juniors in pursuance of the D.G. Posts order dated 22.3.1988 or grant the right of option permissible under O.Ms. dated 26.9.81 and 28.1.85 of M.H.A.

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A notice was issued to the respondents to file the reply, contesting the application and grant of reliefs prayed for.

Heard the learned counsel Sh. Sant Lal for the applicant. None appeared on behalf of the respondents. The matter has been on board for quite sometime and from 12.7.95 the matter was listed thrice but no one appeared for the respondents and, therefore, I have decided to dispose of the matter on the basis of the arguments of the learned counsel for the applicant and on the basis of pleadings on record.

The admitted facts of the case are that the applicant joined service as Postman on 30.05.1953 and was promoted as Postal Office Clerk w.e.f. 2.8.1959. He was sent on deputation to the Army Postal Service. While on deputation to the Army Postal Service the Director Postal Service Delhi Circle New Delhi vide his memo No. Staff/F.I/79-80 dated 4.6.82 appointed the applicant to officiate in Lower Selection Grade until further orders against 1/3rd quota of vacancies of 1979. He was given proforma promotion since he was on deputation vide officer order No. Staff/F.I/79-80 dated 4.5.1983. The applicant was made substantive in Lower Selection Grade with effect from 1.3.1984. His pay on promotion was fixed at Rs.470/- w.e.f. 20.06.1982. The grievance of the applicant is that

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his juniors who were promoted to Lower Selection Grade w.e.f. 30.11.1983, namely, Sh. Girdhari Lal, Sh. Jai Dayal Grover and Sh. Dina Nath are drawing higher pay than him and, therefore, on return from his deputation he is entitled to draw the same pay as his juniors.

The respondents in the reply have admitted having given proforma promotion to the applicant when he was on deputation to the Army Postal Service. It is also admitted that he was promoted to the Lower Selection Grade w.e.f. 30.11.1983 under the Time Bound Promotion Scheme. In the reply it has been stated that the date of increment of the juniors fell earlier than of the applicant i.e. the three respondents who were drawing their increments from February whereas the applicant was getting from 1st June of each year. The respondents got the benefit of their pay fixation under FR 22(a)(1) as per option and on 1.2.84 first two of them got pay fixation of Rs.500/- i.e. Sh. Girdhari Lal and Sh. Jai Dayal w.e.f. 1.11.1984 and Sh. Dina Nath w.e.f. 1.2.1985. The entire controversy can be resolved by an answer to the following questions:-

(a) Whether the applicant is senior to the respondents whom he has named?

(b) Whether he was given proforma promotion while on deputation to Army Postal Service?

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(c) Whether his case is covered under
Section 22-C of the Fundamental
Rules and

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(d) Whether he is covered by the latest
circular issued by the Department
of Personnel & Training in 1993.

The answers to these questions are in the affirmative and, therefore, the applicant is fully entitled to draw the same pay from the date he was given proforma promotion. He is entitled to draw the pay his immediate junior is drawing. He would not be entitled to draw any arrears since he had been drawing higher emoluments while on deputation to the Army Postal Service. He has been adequately compensated in the form of deputation allowance given to him but his pay would be fixed at par with his immediate juniors and his notional pay fixation would be from the date the proforma promotion was given to him so that his seniority remains undisturbed. If he had drawn increments while on deputation he would not be entitled to claim any arrears of the increments as a result of his promotion in the 20% quota fixed in the Time Bound Selection Grade.

The application succeeds partly and is allowed and the orders issued by the respondents are quashed and set aside. They are directed to fix the pay of the applicant at par with his immediate juniors and to give him all other consequential benefits minus the arrears of pay since he had drawn deputation

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allowance. His notional promotion would be from the date he was given proforma promotion and he would draw the increments due to him from the date he reverted minus arrears of these increments. He would be entitled to pay fixation at par with his immediate junior from the date he reverted and for purpose of increments there would be ante dating of the date of his increment from the date his immediate junior draws the increment. With these directions, the O.A. is

disposed of but without any order as to costs. *This decision should be implemented within a period of three months from the date of receipt of the certified copy of this order.*

(B.K. Singh)

Member (A)

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