

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

(12)

Dated: Allahabad, This The 03rd Day of November, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 429 of 1997

R.S. Gupta
son of Sri Moti Lal
presently posted as Post Master General,
Bareilly Region, Bareilly,
Resident of Head Post Office Compound,
Distt. Bareilly.

. . . Applicant.

Counsel for the Applicant: Sri K.C. Sinha, Adv. and
Sri Ashish Sinha, Adv.

Versus

1. Union of India through Secretary Department
of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Member Personnel,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-110001.
3. Assistant Director General (S.G.P.)
Government of India, Ministry of Communication,
Department of Posts, Dak Bhawan, Sansad Marg,
New Delhi.

. . . Respondents.

Counsel for the respondents: Sri Devi Shankar Shukla, Adv.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

This application has been filed for setting
aside order dated 3.10.96 issued by respondent

no.3 and issuance of direction to the respondents to grant additional remuneration to the applicant for discharging additional duties from 1.2.91 to 20.1.92. Interest is also claimed.

2. The case of the applicant is that he was working in the pay scale of Rs.4500-5700 as an officer of Junior Administrative Grade in Indian Postal Services on the post of Director Inspection Postal Services Board in the Department of Posts in Ministry of Communication, New Delhi. He was asked to look after the duties of Director (S.R.) on retirement of Sri B.M. Kapoor on superannuation on 31.1.91. The applicant was asked to look after the additional duties of Director (S.R.) with effect from 1.2.91 in addition to his duties without any extra remuneration. The applicant made a representation dated 17.1.92 and another representation dated 22.9.95. The second representation was considered and replied to by the respondents and was rejected. The applicant files this application on account of the said rejection.

3. The arguments of Sri Ashish Srivastava for the applicant and Sri D.S. Shukla for the respondents have been heard. The pleadings on record have been considered.

4. The learned counsel for the applicant has contended that the representation of the applicant was rejected on the ground that the applicant was not formally appointed by the competent authority to hold additional charge of the post of Director (S.R.). Therefore additional remuneration envisaged under F.R. 49 was held as not admissible but this was due to no fault of the applicant who was made

to bear extra burden for almost a year without being paid any extra remuneration although he was clearly entitled for the same under F.R. 49.

5. The learned counsel for the respondents has contended that the applicant could not claim extra remuneration because the order for looking after the duties of other post was issued on 31.1.91 while he ~~asked~~ was ^{was} asked for the additional remuneration only on 17.1.92 belatedly. It is also contended that the applicant willingly looked after the duties without any extra remuneration. It is also contended that the applicant was looking after the extra work at the cost of his assigned regular work which was accepted by the respondents on account of the handling of extra charge by him. The applicant, it is contended should have declined to take extra charge if he was not willing to do ^{so} under terms stated by the respondents. It is further stated that no formal notification was issued and hence principle requisite of applicability of F.R. 49 are met.

6. We have considered ~~both~~ the arguments of both the parties. There is no denial of the fact that the applicant did handle the post of Director (S.R.) in addition to his own post for almost a year. The order of appointment dated 3.1.91 has been made by the respondents and it satisfies the requirement of a formal order. The only flaw is that the order mentions a condition that the applicant would hold the charge in addition to his duties without any extra remuneration. Such an order was not consistent under F.R. 49(3) the Government of India Ministry

of Finance O.M. No. F.6(5)-E.III(B)/65 dated 12th September 1966 provides that where an officer holds charge of an extra cadre post in addition to his charge of regular post it would be a combination of appointment and is entitled to remuneration for a maximum period of three months by the Administration, Ministry and for further period in concurrence with the Ministry of Finance. This again was a requirement which was for the respondents to fulfill and obtain sanction for period beyond three months. The applicant can not be treated to be at fault for having continued the work beyond the period of three months.

7. As far as the delay in filing his claim is concerned, the applicant made his first representation on 17.1.92 while the extra charge with the applicant of ex-cadre post continued till 20.1.92 therefore there was no delay and there was no question of limitation involved. The department of Personnel and Training by their O.M. No. 4/2/89 Est. (Pay-ii) dated 11.8.89 have issued following guidelines with regard to entrustment ^{another} of/charge to an officer reads as under:-

- (i) 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 or the Rules, Regulations, By Laws made under various articles of Constitution such as F.Rs., C.C.S.(C.C.A.) Rules, C.S.Rs., D.F.PRs., 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

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allowed the additional remuneration as indicated in F.R.49.

(ii) Where an officer is required only to attend to the usual routine day-to-day work of non-statutory nature attached to the post, an office order may be issued clearly stating that the officer will be performing only the routine day-to-day duties of non-statutory nature and that he would not be entitled to any additional remuneration. The office order should also specify what duties he would be discharging or what duties he would not be discharging.

The applicant has been asked to look after the duties of Director S.R. and not only routine current or non-statutory duties and therefore he is entitled to remuneration under F.R. 49 for the period of charge held by him from 1.2.91 to 20.1.92.

8. In view of the findings we direct the respondents to consider the case of the applicant under F.R. 49(3) and pass orders within a period of four months from the date of receipt of a copy of this order from the applicant. No order as to costs.

Rafiqulhaq
Member (J.)

Abdul
Member (A.)

Nafees.