

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHADAD

O.A.No. 1072 1987
I.A.No.

DATE OF DECISION

July 1989

Laloo Lal Guptā Petitioner

Km. Sashna Srivastava Advocate for the Petitioner(s)

Versus

U. O. I. & another Respondent

Sri K. C. Sinha Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. K. J. Raman, A.M.

The Hon'ble Mr. .

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other Benches ?

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 1072 of 1987.

Lalloo Lal Gupta **Applicant.**

Versus

Union of India & another **Respondents.**

Hon'ble K.J. Raman, A.M.

This is an application, filed under Section 19 of the Administrative Tribunals Act, 1985, by the applicant, Sri Lalloo Lal Gupta, Assistant Post Master (APM)^{1/4} Allahabad Head Post Office, against the Union of India through Post Master General, U.P. Circle, Lucknow and the Senior Post Master, Allahabad. In this application the applicant seeks to get his pay refixed in accordance with F.R. 22-C, so as to be not less than the pay drawn by his juniors in the present grade.

2. The applicant entered the Postal Department in 1963 as a clerk, according to a scheme introduced for providing promotional avenues to clerks, ^{1/4} 1/3rd of the vacancies in the lower selection (LSG) grade were reserved for being filled up on the basis of a qualifying examination. The applicant appeared in such qualifying examination held on 10.12.1978 and was declared successful for the ^{1/4} 1/3rd quota. Actually he joined in the higher grade at Allahabad on 28.2.1982 as Assistant Sub Post Master (ASPM). A circle gradation list for LSG staff was prepared and circulated in which the applicant figured at Sl.No.776. The grievance of the applicant is that in the higher grade post occupied by him, he is getting less pay than ^{1/4} the number of his juniors according to gradation list, referred to above. It is the contention of the applicant that under F.R. 22-C and the instructions issued thereunder, if a Government servant is promoted to a higher post drawing a lower rate of pay in that post than another

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Government servant junior to him, the pay of the senior Government servant in the higher post should be stepped up to a stage equal to the stage fixed for the junior in the higher post. The applicant states that this rule was not observed in the fixation of his pay vis-a-vis his juniors in the LSG grade and the same error in the fixation of his pay as per the recommendations of the 4th Pay Commission. The applicant represented in the above matter to the Senior Post Master (Sr.PM) (Annexure '4'). He got a reply (Annexure '5') simply informing him that "in case stepping up pay with the pay of Sri T.P. Misra and others is not justified according to Rules". He appealed to the Post Master General (PMG), Lucknow specifically pointing out how his juniors S/Sri Prabhu Dayal and Sheo Mangal Ram were drawing more pay than the applicant in the LSG. To this also he received a cut reply from the Sr.PM stating that there is no scope to give him benefit under the Rule. The applicant states that both the orders, referred to above, rejecting his claim are non-speaking orders which cite no reason or rule for the decision.

3. In the reply filed, the respondents have stated that the pay of the applicant as well as the other persons, mentioned by him, have been fixed strictly according to rules. It is stated that the applicant was junior to S/Sri Prabhu Dayal and Sheo Mangal Ram in the junior grade. The applicant was promoted to the LSG under the 1/3rd quota earlier. Thereafter the other two persons mentioned above, were promoted in the ordinary course under the 2/3rd quota. The two persons in question were drawing higher pay than the applicant in the junior grade.

4. The case was heard on 21.7.1989 when Km. Sadhna Srivastava, learned counsel for the applicant, explained the case of the applicant. She stated that the authorities concerned had not considered the claim of the applicant properly under the rules and had summarily rejected the claim by non-speaking order. In particular, she relied on Government of India's instructions contained in Ministry

of Finance O.M. No. F.2(78) E.III(A)/66, dated 4.2.1966 reproduced at Sl.No. (10) at page 96 of Swamy's Compilation of Fundamental Rules and ~~Subsidiary~~ ^{Supplementary} Rules, Part I, IXth Edition, regarding removal of anomaly by stepping up of pay of senior on promotion drawing less pay than his junior, and stated that the applicant fulfilled all the conditions mentioned in the instruction, referred to above, for getting his pay raised to the level of his juniors in the higher grade.

5. Sri K.C. Sinha, learned counsel for the respondents, referred to paras 4 and 5 of the counter affidavit and stated that the claim of the applicant is not supported by the rules or instructions of the Government. He, however, fairly ~~considered~~ ^{Conceded} that the letter rejecting the claim of the applicant as well as the communication rejecting the appeal of the applicant, was not "speaking" and gave no clue as to the reasons for the rejection. He was, therefore, not in a position to comment on the applicability of the 1966 instructions, cited above, to the present case.

6. After a careful consideration of the foregoing, I feel that the impugned orders rejecting the claim of the applicant (Annexure '5') and the appeal (Annexure '7') should be set aside, since no reason whatsoever is indicated in these communications for the rejection of the claim of the applicant. It appears that the claim of the applicant has not been adequately considered in accordance with the rules and instructions on the subject, including the instructions cited by the learned counsel for the applicant.

7. In the interest of justice I allow this application. The two impugned orders in question are hereby quashed and the respondents are directed to reconsider the claim of the applicant in accordance with the relevant rules and instructions of the Government and thereafter communicate their decision to the applicant in a speaking, reasoned order. While deciding the case,

(Signature)

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the observations made above shall be kept in mind. The foregoing directions shall be carried out within three months from the date of receipt of this order. Under the circumstances of the case, there will be no order as to costs.

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MEMBER (A).

Dated: July 26, 1989.

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