

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 932 of 1995

Allahabad this the 30th day of April 1997

Hon'ble Dr. R.K. Saxena, Member Judicial
Hon'ble Mr. S. Dayal, Member Admn.

Prem Shanker Saxena S/o Sri Nanak Prasad Saxena,
R/o 107/17, Raghunath Bhawan, Chandra Nagar, Kanpur.

Applicant

By Advocate Sri H. S. Srivastava

Versus

1. Union of India through the Secretary, Ministry of Communication, Post & Telegraph Directorate, New Delhi.
2. Director General, Department of Post, New Delhi.
3. Chief Post Master General, U.P. Circle, Lucknow.
4. Director, Postal Accounts, U.P. Circle, Aminabad, Lucknow.

Respondents.

By Advocate Dr. D. Chandra

ORDER

By Hon'ble Dr. R.K. Saxena, Judicial Member

This O.A. has been filed by one - Prem Shanker Saxena for seeking the directions to the respondents about payment of salary in the scale of Rs.700-900 w.e.f. 01.6.79 to 09.5.1984. The payment of interest at the rate of 12% per annum is also claimed.

2. The brief facts of the case are that the applicant was appointed as Upper Division Clerk on 30/5/1964 in Pay and Accounts Office, Ministry of Rehabilitation. He was subsequently transferred to Pay and Accounts Office of other Ministries also. He had been promoted from time to time. To get the promotion to the post of Section Officer, an examination is required to be passed. That examination had two parts and the applicant had qualified in both the parts of the said examination. He was, therefore, eligible for the post of Section Officer. Before he passed part II examination of subordinate accounts services, he was transferred to the office of the Deputy Director of Audit and Accounts, Post and Telegraph Department, Lucknow. On passing part II examination, he was promoted to the post of Junior Accounts Officer w.e.f. 22.6.1977 and was posted as Savings Bank Control Organisation (herein-after referred to S.B.C.O.). According to the applicant, the post of Junior Accounts Officer is equivalent to the Section-Officer of Audit Department because the pre-revised pay scales were one and the same.

3. It is stated that prior to 01.6.1979, the S.B.C.O. had offices at Kanpur and Lucknow and entire State of Uttar Pradesh was under those two offices.

The supervision work of those two offices was done by Junior Accounts Officer and the remaining Branches in the State were supervised by the Head Clerks. With the increase of load of work, the Post-Master-General of U.P. Circle Lucknow had sanctioned ~~the~~ 18 posts of Chief Supervisors for various S.B.C.O. Those 18 posts were required to be shared equally by Higher Selection Grade I Officials and Junior Accounts Officers. Anyway, the duties, responsibilities and functions of Higher Selection Grade I Officials and Junior Accounts Officers were one and the same.

4. There had occurred separation of accounts work of the postal ^{being} ~~being~~ from Audit Department w.e.f. 01.4.76. The Recruitment Rules classified the post of Junior Accounts Officer as Group 'C' non-gazetted, non-ministerial and in the pay scale of Rs.500-900. The persons who had passed part I and part II of the departmental examination are made eligible for the appointment as Junior Accounts Officer. The persons who have been promoted to the post of Higher Selection Grade II or I, were required to appear in the departmental examination to get further promotion to the non-ministerial post of Junior Accounts Officer or Assistant Accounts Officer. The applicant claims that no further promotion was given to those

:: 4 ::

who were holding the post of Higher Selection Grade

I. For promotion to the post of Higher Selection

Grade I, only eligibility is that he should have

worked on Higher Selection Grade II post. For this

reason, the applicant claims that the cadre of Junior

Accounts Officer is higher than that of Higher Sel-

ection Grade I appointee.

5. The contention of the applicant is that

the respondent no.2 has issued annexure A-4 on 07.3.1980

defining the duties and responsibilities of the Head

Clerk, incumbent of Higher Selection Grade I and

Junior Accounts Officer. The Junior Accounts Officers

are, therefore, discharging the same duties and res-

ponsibilities as are discharging ^Q by the Head Clerk,

or an incumbent of Higher Selection Grade I but so

far as the salary is concerned, the Junior Accounts

Officer is being paid less salary. He, therefore,

claims that the applicant who was working as Junior

Accounts Officer should have been given the same salary

as was admissible to the Head Clerk or to the holder

of the post of Higher Selection Grade I. The applicant

is stated to have made representation but the same was

rejected on 21/3/1984. The applicant, therefore,

approached the High Court where a Writ Petition was

:: 5 ::

filed but on creation of the Central Administrative Tribunal, the said Writ Petition was transferred and was registered as T.A. No. 1388 of 1987. The said Transfer Application was decided by the Bench on 04.3.1993 with certain directions but the respondents interpreted the directions in their own way and thus, the benefit was denied to the applicant.

6. Because of the non-compliance of the directions, the applicant had preferred Contempt Petition no. 1614 of 1993 which too was decided on 18.4.1995. Since the said Contempt Petition was dismissed and according to the applicant, there was an observation that the applicant should approach the Tribunal by way of fresh O.A., thus, the present O.A. is being filed.

7. The respondents have contested the case on the grounds that the present O.A. is not maintainable because the relief claimed by the applicant was already decided. Not only this, the applicant had moved contempt petition which too was rejected. It is further averred that the duties of Higher Selection Grade I employees and of the Junior Accounts Officer when posted in S.B.C.O. may be the same but for determination of their respective salary and grades,

other factors such as method of recruitment, respective avenues of promotion, permanent absorption in the grade etc. are also taken into consideration. It is, therefore, contended that comparison between the two posts cannot be made because the promotion on the side of Postal Department come to an end at Higher Selection Grade I whereas the promotion of Junior Accounts Officer go upto the Director. It is also contended that the claim of the applicant, as was directed by the Tribunal vide Judgment dated 04.3.1993, was considered by the competent authority which did not find any merit. It is, therefore, urged that the O.A. be dismissed.

8. The applicant has filed the rejoinder, reiterating the facts which were mentioned in the O.A.

9. We have heard the learned counsel for the parties and have perused the record.

10. The first question for consideration is whether the present O.A. is maintainable. There is no denial of the fact that the present applicant had filed a petition which was transferred to the Tribunal and was numbered as T.A. 1388 of 1987. The learned counsel for the applicant concedes that the relief which has been sought in the present O.A. had been exactly the relief

:: 7 ::

in T.A. 1388 of 1987. The said T.A. was decided by the Tribunal on 04.3.1993 and certain directions were given to the respondents. We would like to quote the para 6 of the said judgment in which the directions were given. It reads :

"Accordingly the respondents are directed to consider the matter within three months taking into consideration the responsibilities, the duties and functions of those two and in fact the principle of equal pay for equal work has come to stay in the country and pay the same pay scale if there is no difference in the reliability and confidentiality etc. to the Junior Accounts Officer as to the H.S. Grade I cadre incase the duties, functions responsibilities and qualifications are the same. Let a decision in this behalf be given within a period of three months from the date of receipt of this order. No order as to the costs."

11. A perusal of the directions which were given by the Tribunal go to show that the Tribunal had held that the principle of equal pay for equal work had come to stay in the country. It was, however, pointed out that if there was no difference in the reliability and confidentiality etc., the Junior Accounts Officer should get the same pay scale as was given to the Higher Selection Grade I cadre. The Tribunal further directed that incase duties, function, responsibilities and qualifications are one and the same, only then the same should be given. The other aspect of this direction that if they are found different, in such a situation the benefit of

equal pay was not required to be given. The further direction was that the decision be taken by the respondents within a period of 3 months from the date of receipt of the order. The contention of the learned counsel for the respondents is that in view of this direction, a comparison was made and it was found that two services differ manifestly on all important factors. Anyway, we find that the applicant has again comes before the Tribunal with the same relief which was a relief in the earlier T.A. 1388 of 1987 and was decided finally by a forum which had jurisdiction. In such a situation, the applicant cannot be allowed to approach the Tribunal again.

12. The learned counsel for the ^{applicant,} however, argues that there was some observation of the Tribunal in the decision of Contempt Petition that the applicant should have filed fresh O.A. instead of filing the Contempt Petition. The copy of the judgment of the Contempt Petition is on record as annexure A-11. We have gone through it and we do not find any such observation. Thus, the arguments of the learned counsel for the applicant carries no weight.

13. The respondents have very clearly stated the difference in the functions and avenues of promotion in the two services. They have given ascending chart.....pg.9/-

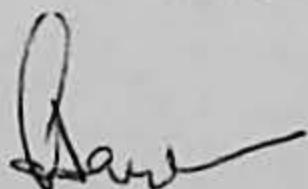
:: 9 ::

of the two services in para 4 of the counter-reply.

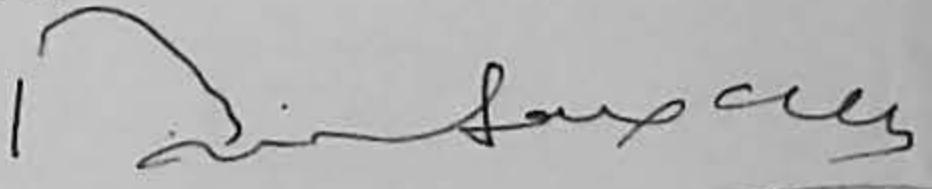
It is revealed from the perusal of the said chart that a person who is working as Junior Accounts Officer ^Q may go upto the Director having salary of Rs.3700-5000.

The incumbent on the other side i.e. Postal Assistant can go only upto the post of Higher Selection Grade carrying the selection ^{grade} of Rs.2000-3200. Thus, there is absolutely no substance in the claim made by the applicant.

14. On the consideration of the facts and circumstances of the case, we come to the conclusion that the present O.A. is not maintainable because the relief claimed in this O.A., was already considered and decided in T.A. No. 1388 of 1987. Even on merits, we do not find any substance therein. The O.A, therefore, stands dismissed. No order as to costs.



Member (A)



Member (J)

/M.M./