

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 362 OF 1989

Cuttack this the 14th day of December, 1994

Bharatiya Extra Departmental
Employees' Union Applicant.

Vrs.


Union of India and another Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? ~
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunal or
not? ~


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

14 Dec 94.


(D.P. HIREMATH)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

Original Application No. 362 of 1989

CORAM:

THE HONOURABLE MR.D.P.HIREMATH, VICE-CHAIRMAN
&
THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)

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Bharatiya Extra Departmental Employees'
Union, Orissa Circle Branch, Mangalabag,
Cuttack-753 001, represented by Shri Narayan
Mahapatra, son of late Balananda Mahapatra,
Circle Secretary

Applicant.

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By the Advocates

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M/S.S.Kr.Mohanty,
S.P.Mohanty,
Miss. A.K.Rout &
Miss S.B.Das.

Vrs.

1. Union of India, through Secretary,
Department of Posts, Dak Bhawan,
New Delhi-11 0001.

2. Chief Post Master General, Orissa Circle,
Bhubaneswar-751 001

Respondents.

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By the Advocate

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Shri A.K.Misra.

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D.P.HIREMATH, VICE-CHAIRMAN

The petitioner Union representing the Extra Departmental Agents in Orissa Circle have sought fixation of pay or allowances to them on par with regular employees in the Postal Department to ensure equal pay for equal work, or in the alternate to implement the Savor Committee's report and that a direction to that effect may be made to the respondents so that their emoluments could be calculated on hourly basis. Their main contention is that the Extra Departmental Branch Post Masters ('E.D.B.P.Ms.', for short) have a long standing grievance regarding the disparity in their pay structure. They are now paid under the scheme of calculation called "Point System". Presently the minimum allowance payable to them is Rs.275/- per month and maximum Rs.440/-. The quantum of work in terms of points is assessed as below :

"1 point for every 20 registered articles handled in a month.

1 point for every 15 money orders handled in a month.

1 point for every 25 unregistered articles handled in a day.

1 point for every Rs.1,000/- each transactions in a month.

1 point for every Rs.45/- worth of stamps sold in a month.

1 point for every 10 Savings Bank or certificate transactions in a month.

1 point for every 15 pension payments in/month.
1 point for every 20 receipts of LIC Premia.

1 point for every 20 receipts of GIC Premia.

14 points for accounts work and receipt and despatch of mails in a month.

If the aggregate of points does not exceed 40 points the basic allowances of Rs.275/- will be payable. For workload exceeding 40 points the basic allowance will be payable as under:

<u>Workload</u>	<u>Basic allowance</u>
41-50 points	Rs.303.00
51-60 points	Rs.358.00
61-70 points	Rs.413.00
71-80 points	Rs.440.00

It may kindly be seen that for the same 10 points of additional workload, different amounts are paid as under.

<u>Workload.</u>	<u>Total.</u>	<u>Benefits.</u>
41-50 points	10	Rs.28.00
51-60 points	10	Rs.55.00
61-70 points	10	Rs.55.00
71-80 points	10	Rs.27.00

Each point being Rs.5.50, there cannot be any justification to raise it by Rs.28.00 for 10 points from 41 to 50 points and Rs.27.00 for 10 points from 71 to 80."

2. This existing system has no consideration for the outturn of work beyond 80 points. Even with regard to money orders, registered articles and savings Bank transactions, similar point system has been adopted. In some cases E.D.B.P.Ms. get much less monthly allowance than the E.D.Mail Carriers working under them. This has given rise to discontentment among the E.D.B.P.Ms. The Savor Committee that was appointed to look into the service conditions of E.D.Agents submitted its report as far back as in the year 1987 recommending Rs.137.01 p.

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as allowances per one hour of work in a month. It has become necessary to prescribe five working hours per day for them so that they could get adequate allowances. They perform postal work like regular postal employees but are discriminated against and paid much less than the regular employees. In sum, they pray that the E.D.B.P.Ms. should be paid a minimum of Rs.411/- per month, wages varying between Rs.411/- and Rs.685/- on hourly basis as recommended by the Savor Committee.

3. In their counter the respondents have traced to the history of the existence of Extra Departmental Agents ('E.D.As.' for short) as a parallel system to the existing postal department since the year 1854. Such a separate system is a judicious blend of economy and efficiency in catering to the postal needs of the rural communities spread over remote corners of the rural areas. These E.D.As. have their own independent sources of income by way of gainful avocations. They readily volunteer to serve the Department on a token financial incentive offered to them for the service. Since the Department did not consider it feasible on terms of economy and comparative lesser intensity of postal traffic to man and operate the post offices in rural areas with whole time departmental employees attached to departmental post offices, it took recourse to the alternative

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of opening of E.D.post offices mainly in rural areas. Thus the working hours of these E.D. post offices are fixed on a minimum of three hours and maximum of five hours a day subject to its variation from three to five hours on account of higher intensity of postal traffic. Of the total strength of six lakhs employees in the Department as a whole, the E.D.As. account for about three lakhs, i.e. nearly 50%. They form the backbone of the rural postal service in the country. Depending upon the workload and the nature of work required to be performed in various E.D.post offices in the country, the Department has categorised E.D.As. accordingly fixing the minimum and maximum of the consolidated allowances admissible to them. They also refer to the report and recommendations of the Savor Committee with regard to their service conditions and emoluments.

4. The Postal Board felt that even though the E.D.As. may have an alternate source of income and are required to devote only a part of their time to postal work, their remuneration needs to be enhanced. The Board has thus recommended the following minima and maxima of wages for each category of

E.D. employees depending upon their workload :

Sl. No.	Category of post.	Existing wage per mensem.		Proposed wage per mensem.	
		Min Rs.	Max Rs.	Min Rs.	Max Rs.
1)	E.D.Branch Post Master	227	275	300	465

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ii) Other E.D.Employees				
a) for less than 2 hours	191		240	
b) for more than 2 hours	214	254	270	420

The average workload per branch office was as follows
on the basis of the actual figures of the calendar year 1984:


i) Sale of stamps	Rs.5.29 per day
ii) Regd.letters booked	0.32 or 1 in 3 days
iii) Regd.letters delivered	0.76 or 3 in 4 days
iv) M.Os. booked	0.36 or 1 in 3 days
v) M.Os.paid	0.73 or 3 in 4days
vi) No.of SB deposits	0.44 or 3 in 7 days
vii) No.of SB withdrawals	0.1 or 1 in 10 days
viii)No.of RD/CTD/TD deposits	0.33 or 1 in 3 days

These figures display an exceedingly low level of
work in the offices. In a large number of rural post
offices there is scanty work much below than the average.

5. The hours of duty per day of these E.D.B.P.Ms.
is three to five hours and though they are now held to
be the holders of civil posts, their manner of recruitment,
conditions of service, etc., are governed by separate
rules called "E.D.Agents (Conduct & Service) Rules".The
E.D.B.P.Ms. in villages can extract more business in
small savings schemes by their personal contacts and
educating the villagers on the benefits of these
schemes and thus the increase in the work would
automatically increase the allowances that the E.D.B.P.Ms.
get. The Savor Committee's report in regard to wage
pattern of E.D.Agents is under consideration of the

Government. They further contend that they may await the final decision of the Government in that regard. They maintain that the principle of equality of pay for equal work cannot be extended so as to bring the regular departmental employees and the E.D.As. on par with one another. This is so due to lesser workload of E.D.B.P.Ms.

6. The material point for our consideration is whether the E.D.B.P.Ms. ^{who} ~~should~~ constitute a fraction of the E.D.As. ~~and as such~~ should be treated on par with regular departmental post masters for the purpose of payment of wages and other service benefits. In T.A.No.9 of 1988 which we have presently decided, the main prayer of the applicants therein was similar to the prayer made in this application, namely, that the E.D.As. should be treated on par with the regular departmental employees in the matter of their service conditions, emoluments, etc. We have dealt therein in extenso with the history of the system, the distinguishing features in the two systems, and the Government's need to treat the system separately though they are also considered as holders of civil posts for the purpose of Article 311 of the Constitution as ruled by the Supreme Court in various appeals that it decided, the decision having been reported in AIR 1977 SC 1677.



Defining the word 'post', the Supreme Court pointed out that a post under the State means a post under the administrative control of the State. Referring to the Conduct Rules governing the E.D.Agents, it was further pointed out that they contain elaborate provisions controlling the appointment, leave, termination of service, nature of penalties, procedure for imposing penalties and other matters relating to the conduct and service of these E.D.As. The following conclusion reached by the Supreme Court is quite apposite :

"Though such a post is outside the regular civil services, there is no doubt it is a post under the State. The tests of a civil post laid down by this Court in KanakChandra Dutta's case are clearly satisfied in the case of the extra departmental agents."

They also held that there is relationship of master and servant between the Government and the E.D.As. and also held that the E.D.Agents hold posts under the administrative control of the State and hence Article 311(2) of the Constitution is applicable to them. It is pertinent to mention here that the Supreme Court did not rule that the classification of E.D.Agents as a separate class and not on par with the regular Government employees is unreasonable or discriminatory. Thus impliedly the Supreme Court did recognise that this parallel system



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spread over the length and breadth of the country for the period more than a century has been necessitated keeping in view the lesser workload on the E.D.As., their ^{working} ~~service~~ conditions, the privileges they enjoy, and the provision regarding their continuance in their respective posts in the same place where they reside. After elaborate discussion and taking into consideration the decision of the Supreme Court as well as the decisions of some of the Benches of the Central Administrative Tribunal as also the reports of various Committees appointed by the Central Government including that of the Savor Committee, we have come to the conclusion that it cannot be said that the classification of E.D.As. as a separate system is not unreasonable or discriminatory. While concluding the discussion in the above mentioned case decided by us, we have held as follows :

"...In view of consistently large number of such post offices existing in the country it is only necessary that the Central Government should be left with the discretion of regulating their conditions of service keeping in view the financial implications and the State exchequer. Even though in a later decision in the case of Grih Kalyan Kendra Workers' Union vrs. Union of India and others, reported in AIR 1991 SC 1173 it did lay down that 'equal pay for equal work' has assumed the status of fundamental right. It is not necessary to find out similarity by mathematical formula. It however pointed out that there must be a reasonable similarity in the nature of work, performance of duties, qualifications and quality of work performed by them. It is permissible to have classification in services

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based on hierarchy of posts, pay scales, value of work and responsibility and experience. The classification must have a reasonable relation to the object sought to be achieved. In the case of State of U.P. and others vrs. J.P. Chaurasia and others, reported in AIR 1989 SC 19, on the same point, they held that it does not just depend upon either the nature of work or volume of work. Primarily it requires as to whether the evaluation of duties and responsibilities of the respective posts are same. More often functions of two posts may appear to be same or similar but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different and cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. Considered in the light of these decisions we are of the view that the principle of 'equal pay for equal work' is not squarely attracted in the facts and circumstances of the case. There is reasonable classification of the ED Agents as a different category and it fulfils the test prescribed by the Supreme Court time and again. Therefore, that part of the prayer of the applicants that a direction be issued to the Central Government that they should be treated as members of regular civil service cannot be acceded to."

In our view, this finding rendered by us covers the main contention of the applicant in this case. This takes us to the question of fixation of emoluments as claimed by the applicant.

7. The observation of the Supreme Court in the case of Randhir Singh vrs. Union of India and others (AIR 1982 SC 879) makes it amply clear, to repeat, that where all things are equal, persons holding identical posts may not be treated differently in the matter of their of their pay merely because they belong to different Department. (Emphasis supplied). For the reason we have come to the

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conclusion that E.D.Agents cannot be equated with departmental postal employees, it becomes apparently clear that all things are not equal and, therefore, the question of equal pay for equal work becomes out of consideration. The main attack of the applicant is on the point system evolved in the matter of remuneration to the E.D.Agents in different categories as we have pointed out above from the contents of the petition. Here again the grievance is that higher the points lower becomes the increase in the emoluments. This in our view cannot be considered as sufficient enough to increase the benefits to the E.D.As. working out at higher points workload. However, the fact that at some stages if the point system brings down the salary of the E.D.Agents of a higher grade lower than that received by the E.D.As. at the lower grade becomes unjustifiable in normal course. The criterion adopted, however, is one of volume or quantum of work in fixing the remuneration in the case of E.D.B.P.Ms. That again is stated by the applicant union in paragraph 4 of its petition.

8. The learned counsel for the applicant invited our attention to the recommendation of the Savor Committee in Chapter 9 of its report, the extract of which is made Annexure-1. Referring to the case of Nehru Yuvak



Kendra decided by the Supreme Court, the Committee pointed out how the principle of equal pay for equal work was interpreted by the Supreme Court. It then proceeded to pinpoint that the work procedures, the maintenance of accounts, the level of supervision in a departmental office and branch office are vastly different as illustrated in paragraph 9.17 of this Chapter. At paragraphs 9.42 to 9.45 how the wages of these different categories of E.D. Agents work out has been pointed out. Paragraphs 9.42 to 9.45 read as follows :

" 9.42 The Pay Commission have recommended the following scales for the categories with which comparison of the five ED categories is made.

- (a) Head Postman (Cash Overseer)
- Rs.950-20-1150-25-1400
- (b) Postman - Rs.825-15-900-20-1200
- (c) Group 'D' - Rs.750 - 8-790-10-940

9.43 The mid-points of the three scale of (a), (b) and (c) above come to Rs.1175.00, Rs.1012.50 and Rs.845.00 respectively. The hourly rate in the above cases, therefore, comes to Rs.156.67, Rs.135 and Rs.112.67 respectively on the basis of $7\frac{1}{2}$ hours working per day. These rates correspond to wage at the Consumer Price Index of 608. Dearness allowance beyond this index is to be worked on the basis of 100 per cent compensation. The dearness element may be worked on proportionate basis for ED employees, i.e., at hourly rate of dearness allowance at mid point of the scales.

9.44 For simplicity of calculation, it is recommended off to the nearest rupee by reckoning 50 paise or ance and the dearness element and after apply it to the work hours, should be expressed in figures rounded off to the nearest rupee by reckoning 50 paise or more as one rupee and ignoring amounts less than 50 paise, as given in Annex.45.

9.45 Accordingly, the hourly wage of the various categories would work out as follows, at the consumer price index of 608.

(a) Branch Postmaster	... Rs.137.01 per month.
(b) ED delivery agent	... Rs.133.80 per month.
(c) ED mail carrier	... Rs.131.37 per month.
(d) ED packer	... Rs.131.37 per month.
(e) ED mailman	... Rs.131.37 per month."

The recommendation of the Committee with regard to the working hours of the Branch Post Offices has been highlighted in paragraph 9.46, and it is stated therein that all branch post offices should be kept open for a minimum period of one hour a day unless justified by workload when further periods should be determined on the basis of spells of 15 minutes. The same principles may be applied in the case of the other ED categories, their workload hours being regulated after the first one hour, to the nearest 15 minutes in the manner suggested in paragraph 10.28. It also recommends that every time the dearness allowance for the regular employee undergoes a change, the calculations should be revised in the same manner as the initial wage and effective from the same day as in the case of regular employees. If such revision leads to payment of arrears to regular employees from a particular date, corresponding benefit should be extended to the ED agents also effective from the same date, on the basis of the principle of proportions, enumerated in this Chapter.

9. In view of very limited volume of work to be done by various categories of ED agents, their wage being assessed on hourly basis or the outturn of work of each category, the compensatory benefits available for not paying allowance when they go on leave, there being no provision for their transfer from one place to another as well as adequate means of livelihood that they are expected to have a pre-condition to their appointment, fixation of remuneration becomes a complex question which needs a scientific approach. Precisely for these reasons, Committee after Committee is being appointed by the Union Government and the Government has been striving to strike a balance between the workload and remuneration. When the learned counsel for the applicant admitted this position and urged that the Government would do well to accept the recommendations of the Savor Committee in a given time, in our view such an approach is quite fair as the Tribunal with limited material before it on the complex question involved, could not be in a position to straightway determine what could be the wages for particular category of E.D.Agents. It would, therefore, be appropriate for us to make a direction that the Government should take a decision on the report of the Savor Committee as expeditiously as possible. Accordingly, allowing the

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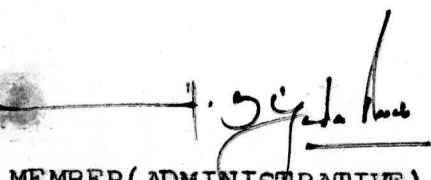
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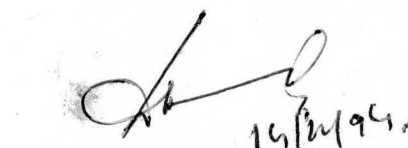
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application partly, we direct that the Union Government shall take a decision on the report of the Savor Committee within six months from the date of receipt of copy of this order.

The application is disposed of accordingly.

No order as costs.


MEMBER (ADMINISTRATIVE)
14 DEC 94


VICE-CHAIRMAN

A.N.Nayak, F.S.