

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.23 of 1990.

Date of decision : June 25, 1991.

Mr. Haroon Rashid and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... Mr. G. A. R. Dora, Advocates.

For the respondents ... Mr. Aswini Kumar Misra,  
Sr. Standing Counsel (CAT)

...

C O R A M:

THE HONOURABLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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J U D G M E N T

B. R. PATEL, VICE-CHAIRMAN, In this case there are 33 applicants, applicants 1 to 23 were getting special pay of Rs. 35/- per month and Rs. 15/- per month as qualification pay as Junior Accountants before they were promoted to the next higher grade of Senior Accountants in the Postal Accounts Service. Applicants 24 to 33 did not get any special pay but were getting qualification pay of Rs. 15/- per month. These applicants are however senior to the applicants 17 to 23. These applicants were promoted like the other

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applicants to the rank of Senior Accountants on 1.7.1984 whereas the applicants 17 to 23 were promoted in July, 1985. The applicants have prayed to take into account the special pay and the qualification pay which they were getting as Junior Accountants while fixing up their pay in the pay scale for the Senior Accountants and for quashing Annexure-A2 for denying the benefit of stepping up of pay. The second prayer relates to applicants 24 to 33.

2. The respondents in their reply have contested the claim of the applicants on the following grounds;

- (i) that all the applicants were not getting the special pay of Rs.35/- while they were working as Junior Accountants;
- (ii) Special pay cannot be included in their existing pay; and
- (iii) Qualification pay is allowed only to those who have passed the prescribed examination.

3. We have heard Mr.G.A.R.Dora, learned counsel for the applicants and Mr.Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents and perused the relevant papers. Mr.Dora has produced before us a copy of the judgment of the Bangalore Bench of this Tribunal in the case of P.S.V.Chari versus The Director General of Posts and another passed on 7.11.1988 and avers that the case before this Bench is similar to the one before the Bangalore Bench. In the case before the Bangalore Bench the applicant was working as a Senior Accountant and he also sought the relief of benefit of special pay of Rs.35/- and qualification pay of Rs.15/- being taken into account while fixing his pay in the pay scale of

*Prave*

Senior Accountant. We have therefore, no doubt in our mind that this case is similar to the case before the Bangalore Bench. The Bangalore Bench in their judgment have decided that the appointment of Junior Accountant as Senior Accountant is a promotion. They have further directed that the respondents should treat the special pay of Rs.35/- as well as the qualification pay of Rs.15/- which the applicant was drawing as a part of his pay in that post on the date of his appointment as Senior Accountant and fix the initial pay in the post of Senior Accountant on this basis by applying F.R.22(c). We have no reason to differ from the judgment passed by the Bangalore Bench. We however agree with Mr.Misra that all the applicants were not getting special pay of Rs.35/-. As mentioned above, applicants 24 to 33 were not getting special pay though they were getting qualification pay of Rs.15/-. We have also made it clear that these applicants were senior to applicants 17 to 23 who were getting special pay of Rs.35/-. In their cases, therefore, it is a question of stepping up of pay. In regard to the averment made by Mr.Misra with regard to the success of the applicants <sup>in</sup> ~~of~~ the prescribed examination we have no information as to which of the applicants did not have the qualification to get the qualification pay. Since admittedly, they were all getting the qualification pay of Rs.15/- it is unnecessary for us to go into the question as to which of them succeeded in the examination and which of them failed to do so. The fact remains that they were getting qualification pay and accordingly to the judgment of the Bangalore Bench with which we agree the qualification pay should be taken

*Ansul*

into account while fixing their pay in the pay scale of Senior Accountants prior to its <sup>revision</sup> ~~revision~~ according to the recommendation of the 4th Central Pay Commission. After having fixed their pay taking into account both special pay and qualification pay in the pre-revised pay, they should be brought on to the revised scale of pay of Rs.1400-2600/-. As regards the applicants 24 to 33, since they were senior to applicants 17 to 23 and were promoted to the rank of Senior Accountants earlier than them (applicants 17 to 23) their pay should be stepped up to the level of the pay of applicants 17 to 23. According to the order of the Government of India contained in Office Memorandum No.7(35)-E.III/87. dated 1st September, 1987 issued by the Government of India in the Ministry of Finance, the special pay of Rs.35/- was to be taken into account for fixation of pay on promotion with effect from 1.9.1985 and as such, the special pay and the stepping<sup>up</sup>/of pay should have effect from 1.9.1985. As regards the qualification pay since the Bangalore Bench has decided it to form a part of the pay scale, we direct that the qualification pay should also be taken into account for the purpose of fixation of pay in the rank of Senior Accountants with effect from 1.9.1985.

4. The case is accordingly disposed of. No costs.

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Member (Judicial) 25.6.91  
Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
June 25, 1991/Saranghi.

*B. N. Mishra*  
..... 25.6.91  
Vice-Chairman.

