

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 708 of 1994

Cuttack this the 3<sup>rd</sup> day of April, 1996

B.K. Mishra ... Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? NO

*Karan Singh*  
(N. SAHU)  
MEMBER (ADMINISTRATIVE)

## CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NO. 708 OF 1994

Cuttack this the day of April, 1996

C O R A M:

THE HONOURABLE MR.N. SAHU, MEMBER (ADMINISTRATIVE)

...

Basant Kumar Mishra  
Postmaster,  
Angul - 759 122

...

Applicant

By the Advocate:

Mr. DP. Dhalasamant

Versus

1. Union of India represented through the Chief Postmaster General, Orissa, Bhubaneswar-751001
2. Director of Postal Services Sambalpur Region, Sambalpur-768001
3. Superintendent of Post Offices, Dhenkanal Division Dhenkanal - 759 001

...

Respondents

By the Advocate:

Mr. Ashok Mishra  
Standing Counsel

...

O R D E R

MR.N. SAHU, MEMBER (ADMINISTRATIVE) : The relief claimed by the applicant is as under :

- 1) Orders/directions be issued declaring the applicant to have crossed Efficiency Bar at the stage of 420/- with effect from 1.1.1981 when it was due or to give him the benefit of fixation of pay at the higher stage, from the date, when he was allowed to cross the Efficiency Bar, which was otherwise due to him;
- 2) That cost of the application be granted
- 3) Any other relief, as deemed fit and proper in circumstances of the case be granted.



2. The basic facts of the case are that the applicant was due to cross Efficiency Bar at the stage of Rs.420/- in the scale of pay of Rs.260-8-300-EB-8-340-10-360-12-420-EB-12-480/- with effect from 1.1.1981 when he was working as Postal Assistant, Dhenkanal Head Post Office. He was not found suitable to cross EB due to bad record of service. When he was considered in September, 1981, these records of service comprised of (1) punishment with stoppage of one increment of pay for three months by an order dated 7.10.1980 modified on an appeal to that of 'censure' by the Director of Postal Services, by his Memo dated 8.6.1981. (2) Punishment with stoppage of one increment for three years for his careless work by the Superintendent of Post Offices order dated 17.7.1978 modified to "censure" by the Director of Postal Services, Sambalpur Region, by his order dated 4.1.1980. (3) Punishment of stoppage of one increment by the Superintendent of Post Offices, Dhenkanal Division by his Memo dated 22.6.1978. This was set aside by the Director of Postal Services, Sambalpur. Because of this bad record and for his unsatisfactory work, he was not allowed to cross EB on 1.1.1981. He was communicated officially on 19.9.1981.

3. During the subsequent review he was allowed to cross EB at the stage of Rs.420/- with effect from 1.1.1982. Normally the Superintendent of Post Offices should have referred the matter to the higher authority to consider fixation of applicant's pay at the higher

stage on 1.1.1982 taking into account the total length of service. This, he did not do. His appeal to the Superintendent of Post Offices was rejected. He preferred an appeal against the order of Superintendent of Post Offices to Director of Postal Services, with a prayer to fix his pay taking his length of service into account at the stage of Rs.444/- with effect from 1.1.1982. This was rejected by the appellate authority by their order dated 18.12.1982. The applicant was promoted to L.S.G. cadre under Time Bound One Promotion Scheme, with effect from 30.11.1983 and his pay was fixed at the stage of Rs.470/-. Again the applicant represented for removal of anomaly by stepping up of his pay under FR 22(c) since he was drawing less pay than his juniors like Bhimsen Sethi and B.K.Nayak. The Accounts Officer, Office of the Deputy Director of Accounts, rejected his claim. His appeal to the Chief Post Master General was also rejected by the letter dated 26.11.1993.

4. The basic question of the applicant has been summed up by the Superintendent of Post Offices, in his letter addressed to the Deputy Director of Accounts. For clarity of the dispute the same is extracted as under :

" Shri Basanta Kumar Mishra a Postal Assistant was due to cross EB at the stage of Rs.420/- in scale Rs.260-8-300-EB-8-340-10-360-12-420-EB-12-480 with effect from 14.1.1981 but was not allowed due to bad record of service till one year and therefore was allowed EB with effect from

1.1.1982. His pay on 30.11.1983 was fixed at Rs.470/- in scale of Rs.425-15-560-EB-20-640.

D.P.S., Sambalpur the appellate authority has ordered vide his No. ST/RD 10/99/82 dated 18.12.1982 as follows:

" It would not be correct to say that the official would suffer a permanent loss in his pay, pension and gratuity as a result of fixation of pay at lower level. Since the official is due for promotion he would automatically get the pay of the next scale along with others promoted with him and as such, the official's loss will generally be limited to the time, the official is not promoted L.S.G."

Now Shri B.K.Mishra represents for stepping up his pay in the next scale, i.e. Rs.425-15-560-EB-20-640 as his juniors are allowed to draw more pay than him. A comparative study of pay of Shri Mishra and two of his juniors are detailed below :

Sl.No.	Name	Date of entry	DNI	Pay Fixed
1.	B.K. Mishra	1.9.61	30.11.83	470
2.	B.K.Naik	7.9.61	30.11.83	485
3.	Bhimsen Sethi	11.11.64	30.11.83	485

All the three officials were working in the scale of P/A Rs.260-8-300-EB-8-360-12-420-EB 12-480/- and were promoted to LSG scale under T.B.O.P., i.e. scale of Rs.425-15-560-EB-20-640.

In view of the above kindly issue a clarificatory instructions as to whether the pay of Shri B.K.Mishra can be stepped up at par with his juniors and fixed at Rs.485/- with effect from 30.11.83. The service books of all the three officials are sent herewith which may kindly be returned at your earliest convenience."

5. This was negatived by the Accounts Officer.

*by*  
This negation is incorrect. The applicant should have got Rs.485/- from 30.11.1983 and not Rs.470/- However, while there is no limitation for claiming stepping up of

14  
14  
in a O.A.  
pay, the grievance being a continuous one, but yet  
money claim subsists only for a period of three  
years and although the claim is valid, the money  
payable is limited to this period of three years.

The applicant stood already retired from service.

The consequential benefits shall be confined to  
three years prior to the date of retirement.] In  
the result the application is allowed as above.

There shall be no order as to cost.

*Narayan Sah*  
(N. SAHU)  
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//