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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

OA No.518 of 2010  
Cuttack, this the 29 day of June, 2012

Badrinarayyan Dash .... Applicant  
-Versus-  
UOI & Others .... Respondents

O R D E R

Coram:

The Hon'ble Mr.C.R.Mohapatra, Member (Admn.)  
And  
The Hon'ble Mr.A.K.Patnaik, Member (Judl.)

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The prayer of the Applicant, in this OA, is to direct the Respondents to pay the minimum of the pay scale of Postman w.e.f. 05.01.2006 i.e when, being a GDS employee, he performed the duty of Postman as per the order of the Respondent No.3.

In the counter, Respondents stand is that the Applicant is a regular GDS employee and he was discharging his duty as GDSMD and getting the TRCA as admissible. The duty hours of Postman and GDSMD are different. He has never been assigned any duty which is beyond his duty hours and as such, the applicant is not

entitled to the relief as claimed in this OA. Despite opportunity, no rejoinder has been filed by the Applicant.

On the last date i.e. on 22.3.2012 the Learned ASC was directed to obtain instruction and apprise this Tribunal on the specific stand of the Applicant that in the past his predecessors had, however, received the higher scale of Postman although they stand on the same footing, denial of the said benefit to the applicant is discriminatory. On the above point, the instruction obtained by the Learned ASC through letter dated 24.2.2012 is produced as under:

“With reference to your aforesaid letter this is to intimate that the following ED officials have worked at Balanga SO for the period from 06.01.04 to 04.01.06 and they have been paid in the minimum pay scale of postman on daily wage basis as admissible prior to the joining of the Applicant Shri BN.Dash. (emphasis supplied).

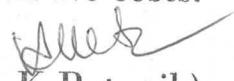
- 1) Shri Rama Chandra Nath;
- 2) Shri Chittaranjan Moharana
- 3) Shri Madhusudan Dash.

However, the applicant joined and worked at Balanga SO vide IPOs Bhubaneswar South Memo No. PF/GDSMD-Nuasantha/05 dtd.26.12.05 in which it was clearly mentioned that “Shri Badri Narayan Dash, GDSMD, Nuasantha BO i/a/w Balanga SO will manage the delivery work of Balanga SO. Shri Dash will draw his TRCA of his own post of GDSMD. Nuasantha BO but payable at Balanga SO”. Hence the applicant has been paid the TRCA of GDSMD from his date of joining as GDSMD Balanga SO i.e. from 05.01.06.”

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Law is well settled that discretion cannot be used discriminatorily and equal pay for equal work is a right of an employee. Similarly law is well settled that there can be no discrimination between the same set of employees. Respondents having paid the minimum pay scale of postman on daily wage basis to similarly situated employees in the past, non payment of the said benefit to the applicant can not be sustainable in the eyes of law particularly when the performance of duty in the higher scale of pay is not in dispute.

In view of the above, after hearing learned counsel for both sides we are of the considered view that the applicant is entitled to the minimum pay scale of postman on daily wage basis in the light of the payment made to other similarly situated employees for the period he had worked as Postman. Ordered accordingly. We further direct that the Respondents shall calculate and pay the amount to the applicant within a period of

60(sixty) days from the date of receipt of copy of this  
order. No costs.

  
(A.K. Patnaik)  
Member(Judl.)

  
(C.R. Mohapatra)  
Member(Admn.)