

3
O.A. No.166/2011

ORDER DATED 3rd MAY, 2011

M. S. Jena.....Applicant
Vrs.
Union of India & OthersRespondents
Coram:

HON'BLE MR. C.R. MOHAPATRA, MEMBER ADMN.

&

HON'BLE MR. A.K. PATNAIK, MEMBER JUDL.

Heard Sri K.P. Mishra, Ld. Counsel for the applicant and Sri J.K. Khandayatray, Ld. Addl. Standing Counsel appearing on notice for the Respondents on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. This Original Application has been filed by the applicant with the following prayer :-

- "(i) hold /declare the applicant is entitled under law to receive the salary attached to the post of Gramin Dak Seva Mail Deliverer w.e.f. the date the applicant has taken the aforesaid charge, i.e., w.e.f. 25.03.2007;
- (ii) direct/order the Respondents to release the differential salary in favour of the applicant w.e.f. 25.03.2007 till the applicant receives the higher salary;
- (iii) direct/order the Respondents to pay the allowances in favour of the applicant for working more than the prescribed time on each day;"

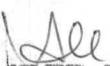
3. The applicant, as revealed from the record has filed series of representations vide Annexure-A/3 series, from time to time, but the same has not still been disposed of and in effect, the applicant has been compelled to knock at the doors of the Tribunal. During the hearing Sri Mishra, Ld. Counsel for the applicant brought to our notice the decision of the Hon'ble Apex Court in the case of Selva Raj Vs. Lt. Governor of Island, Port Blair and Others reported in AIR 1999 SC P.838 that if an employee is ordered to discharge the duties of higher post and the employee worked on higher post whether temporarily or in an officiating capacity, the employee is entitled to salary attached to higher post. He

submits that in view of the above judgement of the Hon'ble Apex Court, the applicant is entitled to higher scale of pay of GDSMD w.e.f. 25.03.2007, his original post being GDSMC.

4. We have considered the submissions made by the Ld. Counsel for the parties and perused the records available. We find that the representations of the applicant claiming higher scale of pay have still not been decided.

5. During the course of hearing Sri Mishra submitted that the applicant is still working in the higher post but getting lower scale of pay. In this regard, Sri Mishra, Ld. Counsel for the applicant further submitted that the applicant will submit a fresh representation containing the decision of the Hon'ble Apex Court as cited above, so as to enable the competent authority to examine the matter and the same can be considered and disposed of by Respondent No.2 by a reasoned and speaking order within a specified time frame. Accordingly, we allow the applicant to file a fresh representation within a week's time and if such a representation is received by Respondent No.2, filed within the time limit as specified above, Respondent No.2 is directed to consider the same and pass a reasoned order within a period of 60 (sixty) days from the date of receipt of copy of this order under intimation to the applicant. This order is passed without going into the merit of the case and as agreed to by the Ld. Counsel for the parties. O.A is accordingly disposed of.

6. Send a copy of this order along with copy of this O.A. to Respondent No.2 for compliance and free copies of this order be made over to the Ld. Counsel for the parties.


MEMBER JUDL.


MEMBER ADMN.