

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
OA 1514 OF 1996

Present : Hon'ble Mr. B.N.Som, Vice-Chairman
Hon'ble Mr. B.V.Rao, Member (J)

Jatindra Nath Barman,
S/o Late Rajani Kanta Barman,
Ex Chief Post Master, Barabazar PO
R/o Vill & PO Tatpara, P.S. Alipurduar,
Dist. Jalpaiguri, West Bengal.

VS

1. Union of India through the Secretary,
M/p Communications -cum- Director General,
Posts, Deptt. Of Posts, Dak Bhavan,
New Delhi-110 001.
2. Chief Post Master General, West Bengal Circle,
Yogayog Bhavan, Calcutta-13
3. Post Master General, Howrah Region, Calcutta-12

For the applicant : None

For the respondents : Mrs. K.Banerjee, Counsel

Heard on : 1.2.06 : Order on : 22.2.06

ORDER

B.N.Som, VC:

The applicant, Shri Jatindra Nath Barman, who retired as Chief Post Master, Barabazar P.O. has filed this OA being aggrieved by the orders passed by the respondents at Annexures-A1, A2 and A7 denying him the pay of the duty post, both at the level of Junior Time Scale (JTS) of Group A of Indian Postal Service (IPS) and the Sr. Time Scale (STS) of that Service. He has, therefore, prayed for a direction to be issued to the respondents to give him the benefit of the pay scale of Rs. 2200-4000/- for the period from 13.10.93 to 28.4.94 and the benefit in the scale of Rs. 3000-4500/- for the period from 13.5.94 to 17.2.96.

2. The grievance of the applicant arises ^{out} of the fact that the respondents by their order dt. 21.5.93 (Annexure-A1) ordered posting of the applicant to Howrah Region against an

existing vacancy of JTS of IPS Group A but it was ordered that the applicant would be allowed to draw pay in the scale of Rs. 2000-3500/-. Accordingly, order to this effect was issued by the Asst. Post Master General vide his Memo No. PMG(H)/SF/GO/ARRGT/93 dt. 3.6.93 (Annexure-A2) stating that the applicant, who was working as Superintendent Offices, on his being allotted to Howrah Region would be posted as Sr. Supdt. of Post Offices, Midnapore Division, but he would draw pay in the scale of Rs. 2000-3500/-. Further it has been submitted by the applicant that he had represented to the respondent No. 2 by his letter dt. 28.9.93 for granting him due and admissible pay scale of JTS (Group A) but without any effect. Thereafter, the applicant was promoted to JTS of IPS Group A in the scale of Rs. 2200-4000/- on officiating basis by order dt. 5.5.94 (Annexure-A7) and posted to North Presidency Division which was in STS of IPS Group A but he was not paid salary in STS grade and continued to draw pay in the JTS grade. Although this promotion order was made on ad hoc basis, the applicant continued in that post till his date of retirement. In the meantime, the applicant had rendered more than 7 years service in Group B cadre and, therefore, he was entitled to be promoted to the Sr. Scale of IPS Group A but the respondents did not allow him the benefit of the pay scale of STS Group A. Hence this OA.

3. The respondents have opposed the application. They have taken the stand that the applicant was an approved PSS Gr. B officer of 1990 batch and he was allowed to hold the charge of JTS Group A post on the condition that he would draw pay in the scale of Rs. 2000-3500/- which he was drawing as Supdt. Of Post Offices and that he had also not completed 3 years regular service in Group B at the relevant time. He was, therefore, not eligible to be posted /given the benefit of the higher scale which is available only on promotion to JTS Group A cadre in the scale of Rs. 2200-4000/-. Regarding his claim for promotion to STS in Group A of IPS, it is submitted that he was not regularly promoted in JTS cadre and did not have the requisite qualifying service for being promoted to STS cadre of Group A. They have also stated that the pay of the applicant was correctly fixed in JTS cadre in Gr. A at the stage of Rs. 2900/- w.e.f. 14.5.94 under FR 22(1)(a)(i). They

have also submitted that as the applicant was not an approved officer of JTS Group A, he did not have necessary eligibility for consideration for promotion to STS Group A cadre.

4. Neither the applicant nor his counsel was present on the date of final hearing. However, Id. Counsel for the respondents was present and heard. We have also perused the records placed before us including the recruitment rules called, Indian Postal Service (Group) Rules, 1987. As this is a matter pending since 1996, we propose to decide this case on the basis of records placed before us and with the aid and assistance of the Id. Counsel for the respondents.


5. The applicant has made two prayers. Firstly, his claim is that he was entitled to pay of the duty post of JTS Group A when he was posted as Sr. Supdt. Of Post Offices, Midnapore Division vide order dt. 3.6.93 issued by the Asst. Post Master General, Howrah Division. The respondents have opposed the said prayer stating that as the applicant did not complete 3 years service in PSS Gr. B cadre at that point of time he was not entitled to the benefit. On the other hand, the applicant relying on a decision of this Tribunal in OA 474/92 in the case of Amal Kanti Kanjilal -vs- UOI submitted that he was entitled to the pay of the post as he was ordered to discharge all the duties of the post. We have perused the said decision of the Tribunal dt. 6.9.94 annexed to the OA. In that case also the applicant i.e. Amal Kanti Kangilal (OA 474/92) was posted to officiate as Director, Calcutta GPO which is a Jr. Administrative Grade post but was denied the scale of pay attached to the post and directing that he would draw pay of his own grade which was at that time in the scale of Rs. 2200-4000/-. In that case also the respondents had taken the stand that as Shri Kanjilal was not eligible to hold that post at the material time because he did not complete the minimum qualifying service in the lower scale, he could not get the benefit of scale of the higher post. However, the Tribunal did not find merit in this submission and relying on an earlier decision of the Tribunal in Prem Lata Chowdhury -vs- ESI, ATR 1988(1) CAT 196, it was held that the applicant having discharged the functions of the higher post and having shouldered higher responsibilities, the respondents could not have denied him salary attached to the post on the basis of the well known principles of equal pay for equal work and directed the respondents that the

applicant was entitled to get the scale of pay attached to the post of Director, Calcutta GPO.

6. The above decision is squarely applicable to the facts of the present case and we are respectfully bound by our earlier decision. In this case also whatever may be the substantive appointment of the applicant, he was asked by the competent authority to work as Sr. Superintendent of Post Offices, Midnapore Division, which is admittedly a post in the JTS of IPS Group A in the scale of Rs. 2200-4000/- and, therefore, the order passed by the Asst. Post Master General, Howrah Regional to the effect that "the applicant will draw pay in the scale of Rs. 2000-3500/-" was clearly without jurisdiction and was bad in law. We, therefore, order that the applicant having discharged and having carried out the duties of the post of Sr. Supdt. Of Post Offices, Midnapore Division from 13.10.93 to 28.4.94, was entitled to pay of the duty post in the scale of Rs. 2200-4000/-. The respondents are also directed to disburse the arrear pay and allowance for the duty post to the applicant for the period he worked as Sr. Supdt. Of Post Offices, Midnapore Division within a period of 90 days from the date of receipt of this order.

7. However, his second prayer that he should have been given the benefit of STS of IPS Gr. A is without merit because the applicant was never promoted on regular basis to the JTS Gr. A cadre. We order accordingly. No costs.

8. A copy of this order be sent to the applicant to the given address in the OA.


MEMBER(J)


VICE CHAIRMAN