

व.प.य. (प्रक्रिया) नियमावली के नियम 22 के प्रत्यंगत निःशुल्क ग्रन्ति

Date of Order : 11.9.2000

Case

- (1) O.A. No. 124/1996
 (2) O.A. No. 125/1996 &
 (3) O.A. No. 082/1997

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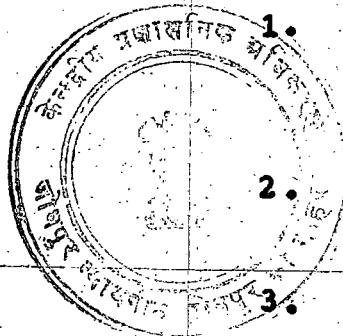
Ratan Lal, S/O Shri Pana Lal, aged about 65 years, R/O
 C/O Shri K.L. Dave, Dassapa House, Loco Running Road, Jodhpur.
 Official Address : Retired Jamadar RMS, Beawar.

... Applicant
 (in OA No.124/96)

Afzal Hussain Khan, S/O Sh. Mehboob Hussain Khan, aged about
 62 years, Official Address : Retired Jamadar RMS, Chittorgarh,
 Residential Address : Parwar Cycle Store, Kumbha Nagar,
 Housing Board, Chittorgarh.

... Applicant
 (in OA No.125/96)

Vs



1. The Union of India through the Secretary,
 Ministry of Post & Telecom, Department of Posts,
 Government of India, Dak Bhawan, New Delhi.
 2. The Chief Post Master General, Post Officers,
 Jaipur.
 3. The Post Master General, Ajmer.
 4. The Superintendent, R.M.S., J-Division, Ajmer.

... Respondents
 (in OAs No.124,125/96)

Madan Singh Chouhan, S/O Shri Devi Singh, aged about 64 years,
 Official Address : Retired Group 'D' Jamadar Rani Post Office
 (lower selection Grade), Residential Address : Chandwal Town,
 District Pali.

... Applicant
 (in OA No.82/97)

Vs

1. The Union of India through the Secretary, Ministry
 of Post & Telecom, Deptt. of Posts, Govt. of India,
 Dak Bhawan, New Delhi.
 2. The Post Master General (West), Jaipur.
 3. The Superintendent of Post Office, Pali.
 4. The Post Master, Pali, Marwar.

... Respondents
 (in OA No.82/97)

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CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

(PER HON'BLE MR. GOPAL SINGH)

The controversy involved as also relief sought in these above applications is the same and, therefore, these applications are being disposed of by this single order.

2. In these applications, the applicants were working with the respondent-department as Group 'D' employees and they were due to retire on attaining the age of 60 years with effect from 31.1.1993, 30.6.1993 and 31.12.1992. They were extended the benefit of BCR scheme by upgrading their scale of pay to Rs.950-1400 w.e.f. 01.10.1991. It was later decided by the respondents that the persons who have been given the scale of Rs.950-1400 under the BCR scheme would be treated as Group 'C' employees and would retire on attaining the age of 58 years. All these applicants had already attained the age of 58 years before they were extended the benefit of upgradation under the BCR scheme. It was also decided by the respondents to retire all such persons immediately and the period from the date of attaining the age of 58 years till the date they are retired should be treated as re-employment. Accordingly, all these applicants were retired w.e.f. 31.10.1992 and the period from the date of attaining the age of 58 years till 31.10.92 was considered as re-employment in Group 'D' scale of Rs.750-950. Contention of the applicants is that though they were given the higher scale of Rs.950-1400, they continued the status of Group 'D' only and hence, they have prayed that the applicants be treated in service till the attainment of age of superannuation of 60 years and accordingly their reti

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ment benefits be calculated on the basis of last pay drawn. By our interim order, the respondents were directed not to effect recovery on account of alleged over payment made to the applicants. Consequent upon their promotion to the scale of Rs.950-1400 and their subsequent reversion to Group 'D' scale.

3. Notices were issued to the respondents and they had denied the application.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. It is seen from the records that the applicants were granted the upgraded scale of Rs.950-1400 w.e.f. 1.10.91 vide respondents' order dated 23.12.91 (Annexure A/5). They had already attained the age of 58 years before the date when the upgraded scale was granted to them. We have also gone through BCR scheme and we do not find any provision that the Group 'D' employee granted the scale of Rs.950-1400 would be treated as promoted as Group 'C' employee and would be liable to be retired on attaining the age of 58 years. The respondents' action in declaring that Group 'D' employees on grant of upgraded scale of Rs.950-1400 would retire on attaining the age of 58 years, in our view, is not tenable because the higher scale was granted to obviate stagnation and frustration amongs the employees and they continued to discharge the duties and responsibility of Group 'D' employee. They were never given the status of a Group 'C' employee. Before implementing the BCR scheme, the applicants were never told that they would retire at the age of 58 years if they opted for the upgraded scale.

6. In the light of above discussion, we observe that the respondents' action to retire the applicants on attainin

the age of 58 years and treating the period beyond 58 years as re-employment is not consonance with the scheme and, therefore, deserves to be interfered with. Accordingly, we pass the order as under :

The impugned orders dated 28.10.92 and dated 15.9.1995, and consequential orders for recovery of alleged over payment are hereby quashed and set aside. If any recovery has been made from the applicants, the same shall be refunded to them alongwith the interest @ 12% per annum. Applicants on grant of upgraded scale of Rs.950-1400 would be treated as Group 'D' employee and would also be entitled to continuing in service till completion of 60 years of age. Since the applicants have already retired w.e.r. 31.10.1992, the retiral benefits be calculated on the basis of their presumptive pay in the scale of Rs.950-1400 on the date of their normal retirement on attaining the age of 60 years. We allow four months time to the respondents to comply with these orders.

7. Parties are left to bear their own costs.

SD/-

(GOPAL SINGH)
MEMBER (A)

J

SD/-

(A.K. MISRA)
MEMBER (J)

प्रमाणित सही प्रतिलिपि

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15/9/2000

प्रनुभाग अधिकारी (न्यायिक)

स्वतंत्र अधिकारी (न्यायिक)

नोबिपत्र

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Part II and III destroyed
in my presence on 10-1-07
under the supervision of
section officer () as per
order dated 1-7-1906

NGM
Section officer ()

CJ &
K S Gill
for x matter
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