

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 23.03.2000

O.A. No. 285/1998

Shri Madan Lal Sharma son of Shri Mohan Lalji aged about 56 years resident of village and post Kalab Kalan via Raipur Marwar, District Pali (Rajasthan), presently working on the post of EDBPM in the Post Office Panchanpura, District Pali (Rajasthan).

... Applicant.

v e r s u s

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
2. Post Master General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Pali Division, Pali-Marwar.

... Respondents.

Mr. S.K. Malik, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed for a direction to the respondents to make payment to the applicant @ Rs. 420/- plus D.A. per month as applicable to the post of EDDA with effect from 24.12.1991 and onwards till the date of payment alongwith interest @ 18% per annum.

2. In the application, the applicant has stated that his pay has been wrongly reduced from Rs. 420/- plus D.A. to Rs. 275/- plus D.A. with effect from 24.12.1991 and which has been enhanced to Rs. 303/- plus D.A. with effect from 1.12.1995 vide Annexure A/4.

3. The applicant has elaborated his case contending that he was

ML

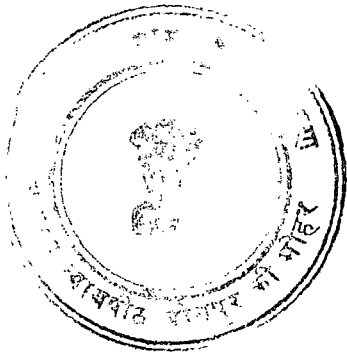
(11)

first appointed as EDDA (Extra Departmental Delivery Agent) at Post Office Kalab Kalan, District Pali, with effect from 1.7.1980 on the basis of the order dated 31.7.1980 vide Annexure A/1 with the pay scale of Rs. 105/- plus D.A. On the basis of the IVth Pay Commission, this pay scale of Rs. 105/- was enhanced to Rs. 420/- plus D.A. with effect from 1.1.1986, which the applicant was drawing.

4. The applicant further submits that certain new Post Offices were created in the year 1991 and with effect from 18.12.91, a new Post Office was created at Panchanpura and he was shifted and appointed at Panchanpura Post Office as EDBPM with effect from 24.12.91 vide Annexure A/3 dated 29.1.1992 with pay scale of Rs.275/- plus D.A. As already stated above, this pay scale at Rs.275/- plus D.A. has been subsequently revised to Rs. 303/- with effect from 1.12.95 whereas on the earlier post, he was holding the pay scale of Rs. 420/- plus D.A. per month. Consequently, the pay of the applicant has been reduced to Rs. 275/- and then enhanced to Rs. 303/- per month, without any notice to him and, therefore, this action of the respondents is illegal and against the principles of natural justice. The applicant has submitted that he is entitled to pay scale of Rs. 420/- plus D.A. per month since he continued to work in the department right from the date of his appointment vide Annexure A/1 with effect from 1.7.80 and as such his pay could not be reduced, much less without any notice to him.

5. By filing counter, the case of the applicant has been denied by the respondents contending that the post of EDDA at Kalab Kalan was abolished and thereafter, the applicant was appointed as EDBPM at Panchanpura Post Office with effect from 24.12.91 with a new pay scale Rs. 275/- plus D.A. per month. It is further contended that earlier appointment at Kalab Kalan vide Annexure A/1 was a contractual appointment and on the basis of Annexure A/3 he was appointed on the post of EDBPM on contractual basis with a pay scale Rs. 275/- plus D.A. per month and, therefore, the applicant cannot make any grievance in this application.

6. The learned counsel for the applicant has brought to our notice an order of this Tribunal dated 07.09.1999 passed in O.A. No. 169/1996 and its batch, contending that the matter in the present application fully stands covered by the aforesaid order of the Tribunal. On the other hand, the learned counsel for the respondents submits that the the case in hand is distinguishable from the one decided in O.A. No. 169/96 (supra).



[Handwritten signature]


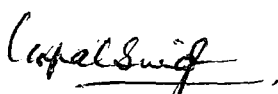
(12)

7. We have gone through the order dated 7.9.99 passed in OA No. 169/96 and we find that the only difference in the case in hand and the case decided in OA No. 169/96 is that the matter pertains to the other Post Office created, other than the Post Office involved in the present application. Except this difference, no other difference is noticed in the present O.A. as well as the OA No. 169/96 decided on 7.9.99.

8. In the order passed in OA No. 169/96, it has been held that the action of the respondents in reducing the pay scale from Rs. 420/- plus D.A. to Rs. 275/- plus D.A. itself was without any notice to the applicant giving rise to civil consequences. Thus, the action of the respondents was arbitrary and against the principles of natural justice. The Tribunal has further observed that on shifting of departmental agent from one place to another, his initial pay was to be protected and accordingly, they were entitled to pay scale of Rs. 420/- plus D.A. per month.

9. On going through the said order of the Tribunal in O.A. No. 169/96, we find that the present case is fully covered by the above order. In the instant case also, the impugned action of the respondents in reducing the pay of the applicant has been passed without notice to him and hence was illegal and arbitrary. Since the pay scale which he was enjoying is liable to be protected, we feel that the reduction of initial pay scale Rs. 420/- itself is illegal. Consequently, we pass the orders as under:-

The application is allowed and the impugned action of the respondents in reducing the pay scale of Rs. 420/- plus D.A. to Rs. 275/- plus D.A. per month with effect from 24.12.91 is decalred illegal and set aside. The applicant is entitled to the pay scale of Rs. 420/- plus D.A. which he was drawing on the post of EDDA with effect from 1.1.1986.. Since the applicant has approached this Tribunal after long delay, we restrict the arrears of pay scale for one year before the date of filing of the O.A. and subsequent thereto, upto date, as done in O.A. No. 169/96 decided on 7.9.99. Accordingly, we direct the respondents to pay the difference of pay within three months from the date of receipt of a copy of this order. Parties shall bear their own costs.



(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

Lib-28/3

Rec

Amr

S.K. Malik
Adv

28/3/200

R/copy

W-
29/3

(Winit-mather
Adv)

Part II and III destroyed
in my presence on 11-10-96
under the supervision of
section officer (1) as per
order dated 23/8/96

Section officer (Record)