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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR.**

Original Application. No. 288/2004

Date of order: 10th September, 2008

Hon'ble Mr. D.Sankaran Kutty, Judicial Member.

Hon'ble Mr. Tarsem Lal, Administrative Member.

Mahendra Kumar Bhatnagar, S/o Shri Pana Lal ji Bhatnagar, aged about 47 years, resident of Basni Mutha Raod, Sojat City, Distt. Pali, working as BPM, Bilawas, Tehsil, Sojat City, District. Pali

: applicant.

Rep. By Mr. R. S. Saluja : Counsel for the applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Parliamentary Street, New Delhi.
2. The Post Master General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Office, Western Region, Pali.

Rep. By Mr. I. S. Pareek, Counsel for the respondents.

ORDER.

Per Mr. Tarsem Lal, Administrative Member.

Applicant Mahendra Kumar Bhatnagar, has filed O.A. No. 288/2004, under Sec. 19 of the Administrative Tribunals Act, 1985, and prayed for the following relief:

" that by an appropriate order or direction any order which has been passed by the respondents for reducing the pay of the applicant may kindly be quashed and set aside by the Hon'ble Tribunal and respondents may be directed to to make payment to the applicant of Rs. 518/- + D.A. per month as applicable to the post of EDMC w.e.f. 23.08.88 along with corresponding pay in the revised Pay scales along with interest @ 16% per month with all consequential benefits.



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2. The facts as culled out from the O.A. are that the applicant was appointed as EDMC, w.e.f. 01.12.76, in the Bilawas Post Office. He was paid salary at the rate of Rs. 105/-+ DA at that point of time and he was discharging duty for five hours. When the applicant was appointed as EDMC, one Kisthur Singh was also working as BPM who was to work only for 3 hours each day and both of them had to complete the work of the Branch. Shri Kisthur Singh attained the age of superannuation on 30.04.88. After his retirement, the applicant was given additional charge of BPM in addition to his normal duties as EDMC, vide letter dated 30.04.88 (Annex. A/2). He was paid Rs. 518/- in the same scale of pay.

3. In the meantime, the applicant was informed vide letter dated 12.08.88 (Annex. A/3) that the post of EDDA/MC, Bilawas was abolished and the applicant was asked to look after the work of EDMC and BPM. For that he was paid Rs. 50/- per month as additional pay. The designation of the applicant was changed to EDBPM instead of EDMC vide order dated 09.11.88. After his appointment as EDBPM, the pay of the applicant was reduced to Rs. 275/- + DA from Rs. 330/- + DA for the reason that EDBPM will have to work only for three hours a day. The applicant was paid revised pays whenever the pay revision has occurred. After becoming EDBPM, the applicant was receiving less pay than what he otherwise would get. The applicant has explained that the pay scale of EDMC is Rs. 1545-2020/- for five working hours and Rs.1220-1600 for 3 working hours and for a BPM working for three hours the pay scale is Rs. 1280-1980, and for five hours the pay scale



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is Rs. 1600-2400 + DA. Thus the applicant is receiving lesser pay than what he was receiving as EDMC and this situation has further resulted in loss of bonus to the applicant. The applicant has submitted repeated representations but none of them yielded any satisfactory reply from the respondents.

4. The applicant is facing further hardship when the delivery jurisdiction of the Bilawas has increased enormously to areas like Keria, Kumhariya, Khetaya, Sardar Sagar, Ram Sagar, Navoda, Kanteria and Kajraya. The dhanies are spread over in an area of 5 Kms. In the process, the applicant has to distribute dak, money orders of the widows of pensioners to Chowkidaro Ki Dhani, Sardar Sagar, which is situated at a distance of 9 kms from Bilawas and in addition thereto he has to also accept the telephone bills. The applicant is working single handedly and finding it very difficult to complete the regular work of the Branch within time, and because of this on a number of occasions, the authorities have written to him to complete the work single handedly within time. The respondents are neither taking any steps for appointing additional person for the Bilawas Branch office nor paying the applicant the pay scale of BPM who is working for five hours. The applicant has further explained that the Patwari has submitted a report (Annex. A/8) that Chowkidaro Ki Dhanies do not fall within the Bilawas Village rather it falls in Chak No. 1 Sojat City. Aggrieved by the above the applicant has filed the present O.A praying for the relief mentioned in para 1 above.



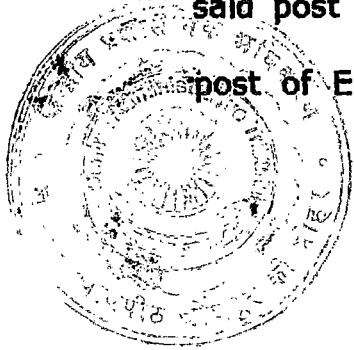
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5. The respondents are contesting the O.A by filing the detailed reply, inter alia pleading that the applicant while working as EDMC was appointed as BPM Bilawas. On retirement of Shri Kisthur Singh, EDBPM Bilawas, on 30.04.1988, the charge of EDBPM was handed over to the applicant. After retirement of Shri Kisthur Singh, BPM, ASPO Pali Sub Division reviewed the work load of EDBPM and EDMC/DA and submitted his report on 13.11.87 (Annex. R/1). The said report reveals that the work load of EDBPM and EDMC/DA was not more than 2 hours and 1.49 hours respectively and the total work was not more than four hours. Therefore, the respondents have abolished the post of EDMC/DA on the basis of assessed work load vide order dated 16.08.1988 (Annex. R/2).

6. The work of EDMC/DA Bilawas was combined with EDBPM Bilawas w.e.f. 30.04.88 as a result of retirement of EDBPM, Bilawas. The applicant's work of EDMC/DA Bilawas was combined with EDBPM and duty allowance of Rs. 50/- (CA & DA) per month was allowed to the applicant. As a result of abolition of the post of EDMC/DA , the applicant was appointed on the post of EDBPM Bilawas w.e.f. 23.08.88 vide office memo dated 09.11.89. Previously, the applicant was paid the allowances of EDMC/DA from 30.04.88 to 23.08.88. This application has been submitted by the applicant with a prayer for revision of his allowances of his earlier post of EDMC/DA, whereas the said post had been abolished on 22.08.88 and the allowances of the post of EDBPM Bilawas was paid since then at the following rates:



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Basic - Rs. 1490/-, D.A Rs. 909/-, OMA Rs. 50/- CA/DA- Rs.100/- FSC
 Rs. 10/-

7. The respondents have explained that the applicant was getting Rs. 497/- more than the earlier post EDMC/DA. Under these circumstances, the applicant is not entitled for protection of allowances in pursuance to the letter of Post Master General, Jodhpur dated 08.07.98 (R/3).

8. The respondents have explained that that the post of EDMC/DA was abolished in view of the assessed workload, but the applicant was retained in service while taking sympathetic consideration and looking to his length of service therefore, his services were not retrenched. The applicant was offered the post of EDBPM and he was appointed on the said post on his own request.

9. As per the review carried out in the year 2001, the work load of EDBPM, Bilawas comes to 41.97 points and the Branch office is running at a loss of Rs.22005.60 per annum. The post of EDMC has been abolished and therefore, there is no question of pay and allowances of the post of EDMC, as the applicant has already been appointed as EDBPM, Bilawas on 24.10.88 after his written consent.



The respondents have explained that the Chowkidaron Ki Dhani Sardar Sagar are within the jurisdiction of Gram Panchayat, Bilawas, which was confirmed by the Sarpanch, Gram Panchayat Bilawas vide

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letter dated 06.01.2003,(Annex. R/5) by Gram Sewak vide letter dated 28.09.2002, by Head Master GP School, Chowkidaron Ki Dhani, Bilawas, vide letter dated 28.09.2002.

11. As per the review carried out during the year 2001 the work load of EDBPM comes to 41.97 points which is less than 2 hours work and the Branch office is running at a loss and therefore, there is no question of giving any additional hand to the applicant. Under these circumstances, the applicant is not entitled and eligible for revision of allowances and the present O.A deserves to be dismissed summarily.

12. It is seen that this Court has given the following orders on 27.11.2006:

The matter was proceeded. Learned counsel for the respondents invited our attention to Annexure R/1 wherein on the basis of the work analysis the post of EDMC was sought to be abolished and the work of the same was assigned to EDBPM. It seems that subsequently no work analysis or work study seems to have been carried out for the said post. This position is also evident from certain subsequent development inasmuch as certain new areas have been brought within the control of EDBPM. Learned counsel for the respondents very fairly submits that he would gather the latest information in the matter and submit to this Bench of the Tribunal for perusal, on the next date. The case is accordingly adjourned to 24.01.2007 for admission. Let a copy of this order be made available to the learned counsel for the respondents for doing the needful in the matter."

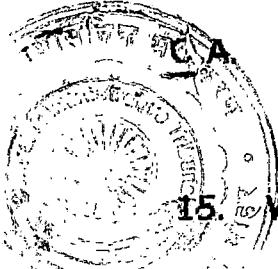
In pursuance of the above direction, the respondents have filed additional affidavit dated 24.04.2007 stating that prior to 01.01.2006, the work load of EDBPM Bilawas was 20.99 points, as averred in the reply to O.A vide Annex. R/1 for which the applicant is getting Rs. 1490/- as basic TRCA +Rs.909/- as DA +RS. 50/- as OMA + Rs.100/- CADA + Rs.10/- FSC, which is quite just and proper.

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13. According to the review of work load carried out in the year 2006, the same comes to 113.74 points (R/7). The respondents have explained that on review, the present work load of EDMC/DA Bilawas was reduced from 1.49 hours to 1.39 hours (R/8). The respondents have further stated that the Branch Office is running at a loss of Rs. 13005.32 per annum as per review carried out during 2006. A copy of details of review for the year 2006 pertaining to adhoc standard to sanctioning for the Staff Postman cadre for branch office Bilawas is placed at Annex. R/9. In view of the above the respondents have requested for dismissal of the O.A.

14. The applicant has filed a rejoinder. While generally refuting the averments made in the reply of the respondents and reiterated the averments made in the O.A. Similarly the respondents have filed a reply to the rejoinder refuting the pleas taken by the applicant and reiterating most of the averments already made in their reply to the



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15. We have heard the learned counsel for both parties. They generally reiterated the arguments already given in their pleadings.

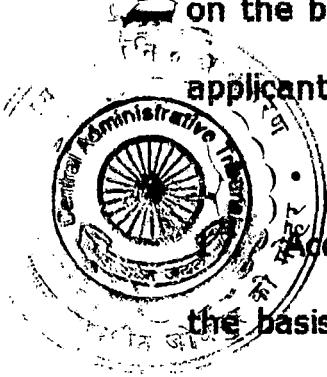
16. We have carefully considered the case and perused the documents. It is seen that the applicant was initially appointed as EDMC Bilawas w.e.f. 01.12.1976. At the time of his appointment another BPM was also working in the same post office, who retired in



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the year 1988. On the basis of review of work load in the Bilawas post office, the post of EDMC/DA was abolished and the applicant was retained in service by taking sympathetic view in view of this length of service. The applicant was offered the post of EDBPM, Bilawas and he was appointed as per his written request. It is observed that the workload at Bilawas post office has been continuously going down, and the BO is incurring losses. However, the applicant has submitted representations that the work load has increased since he has to cover more areas for delivering letters etc and in addition he has to receive telephone bills also. He has also referred to that some areas have been newly included in the delivery zone of the Bilawas Post Office. Therefore, we are of the considered view that the interest of justice would be met if the respondents are directed to reconsider the whole issue by taking into account all the factors brought out by the applicant in the application as well as in the rejoinder and take a view on the basis of work load as well as the distance to be covered by the applicant for delivering the letters etc.



Accordingly, we direct the respondents to reconsider the case on the basis of the pleas taken by the applicant in his application as well as rejoinder. They may also consider the revised work load as well as the distance covered by the applicant for delivering the letters etc. The result of the reconsideration may be communicated to him. In case, they are unable to accede to the prayer of the applicant, a detailed speaking order may be passed and communicated to him.

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This exercise may be completed within a period of three months from the date of receipt of a copy of this order.

18. O.A is disposed of in the above terms.

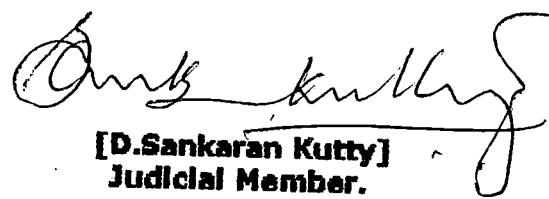
19. No costs.

Tarseem Lal 10/10/08

[Tarseem Lal]
Administrative Member.

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[D.Sankaran Kutty]
Judicial Member.

Received copy
of
11/9108
for R.S. Salunkhe
A.

Received copy of judgement
I.S. Parekh
26.9.08.

all II and III destroyed
in my presence on 15/12/2016
under the supervision of
Section officer () as per
order dated 19/8/2016
Section officer (Record)