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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, AT JODHPUR

.....
Original Application No. 228/2009

Dated this the 17th day of March, 2011

Coram: HON'BLE MR. JUSTICE S.M.M. ALAM, MEMBER (J) &
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)

Mahendra Kumar Bhatnagar s/o Sh. Pana Lal Ji Bhatnagar, R/o Basni.
Mutha Road, Sojat City, Distt. Pali, Official Address: B.P.M. Bilawas,
Tehsil, Sojat City, District Pali.

....Applicant

(By Advocate Mr.R.S. Saluja)

Vs.

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 Offices, Western Region Pali.

....Respondents

(By Advocate Mr.M. Godara, proxy counsel for Mr. Vinit Mathur,
counsel for respondents)

ORDER

Per Hon'ble Mr. Sudhir Kumar, Member (Administrative)

The applicant has come before this Tribunal in the 2nd round of litigation as he is aggrieved by order dated 11.12.2008, passed by the respondents in pursuance of the directions of this Tribunal dated 10.9.2008 passed in his earlier O.A. No. 288/2004. He has prayed for

the following reliefs:-

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- i) The respondents department may kindly be directed to fix applicant's pay in the pay scale of Rs. 1600-2400/-, that consequent to aforesaid being done whatever arrears become due to applicant may kindly further be directed to be paid to him.
 - ii) That, respondents may further be directed to be fixed applicant in aforesaid pay and it corresponding pay existing at relevant point of time w.e.f. 23.8.1988 and consequent arrear may be directed to be worked out and released in favour of applicant.
 - iii) Any other favorable order which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
 - iv) Original application filed by the applicant may kindly be allowed with costs."

2. The brief facts of the case are that the applicant was appointed w.e.f. 1.12.1976 as an Extra Departmental Mail Carrier (for short EDMC), now called Gramin Dak Sewak Mail Carrier (GDSDMC), in the Sub-Post office at Bilawas. At that time, he was being paid emoluments based upon his discharge of 5 hours' duty per day. Alongwith the applicant, at the same time the E.D. Branch Post Master (E.D.B.P.M.) had also been posted, who was working for 3 hours, and between the two of them, they were supposed to complete the postal work of the Branch. The said Branch Post Master attained the age of superannuation and retired on 30.4.1998. Thereafter, without bringing any fresh hand to work either as the EDMC or as EDBPM, the applicant

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was given the charge of the work of EDBPM also in addition of EDMC. Further, he was continued in the same Time Related Continuity Allowance (TRCA) pay scale, and was paid Rs. 518/- per month. The applicant has produced a copy of ~~THE~~^{the} Memo of this transfer of charge su. to him on 30.4.88 as Annexure A/3. Thereafter, through letter dated 20.8.88 (A/4), the applicant was informed that the post of EDDA/EDMC Bilawas earlier held by him had been abolished, and the applicant was placed fully Incharge to look after the work of the EDBPM, and it was mentioned that he would be granted monthly allowance of Rs. 50/- P.M. in addition to his TRCA pay^{as} ~~as~~ EDBPM, for su. performing the work of his erstwhile post of EDDA/MC.

3. Applicant further pleads that later, through order dated 9.11.88, his substantive designation was also changed to EDBPM instead of EDMC. But, due to this change, his emoluments of Rs. 330+DA got reduced to Rs. 275+DA, on the pretext that as EDBPM he will have to work only for 3 hours. However, the applicant submitted that the respondents have not realized the fact that even while he was designated as EDBPM, he was also discharging his erstwhile duties of EDMC/DA, and in the process, he was devoting even more than 5 hours of his time each day for doing the jobs assigned to him. Later on also, as and when pay revision has taken place, the applicant has been given the revised (TRCA) pay scale of EDBPM/GDSBPM only, by treating his working hours to be only 3 hours. This reduction has also further resulted in the loss of bonus payable to the applicant, associated with the Time Related Continuity Allowance (TRCA) payments to him. His repeated representations in this regard yielded

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no satisfactory result. The applicant pleads that the jurisdiction of the Branch Bilawas has increased, in the past years due to which he has to go to distribute dak and money orders at a distance of upto 9 K.M. and he has to accept the payments for telephone bills also. The applicant pleaded that the respondents have neither taken any steps for appointing any additional person for the branch, nor have they been paying the applicant the pay in the pay scale of EDBPM who is for working ~~FOR~~ 5 hours.

4. The applicant further pleaded that the respondents had in the earlier OA taken a stand in their reply that his work load is lesser than 5 hours, and therefore he is not entitled to be placed in the pay scale of Rs. 1600-2400/-. However, by way of an additional affidavit, the respondents had submitted that after 12.6.2003, upto ~~75~~ 75 points work load the first level of TRCA pay scale is Rs. 1280-1980/- and in above 75 points work load, the 2nd level TRCA scale of Rs. 1600-2400/- becomes applicable. The applicant submitted that from this additional affidavit filed by the respondents in the earlier O.A., it was an admitted case of the respondents that as per the review carried out in the year 2006, the work load at the Bilawas Branch P.O. was 113.74 points. The applicant submitted that even this work load as shown was less, and according to his computation the work load comes to 115.60 points even for the year 2005 itself (A/11). In the result, the applicant had prayed that when even in the earlier O.A. itself the respondents had admitted that the work load of the applicant is more than 75 points at least from the year 2006, they could not

have rejected his representation in regard to the revision of his pay

scale. In view of these averments, the applicant prayed for the reliefs mentioned in the opening paragraph.

5. The respondents filed their reply written statement on 3.5.2010. They contested the claim of the applicant on the ground that the Extra Departmental Agents (EDAs)/ now Gramin Dak Sevaks (GDSs) are paid TRCA as per the work load in the concerned post office, and each kind of work has its own weightage of points, and after taking into consideration the totality of the weightages of points, the EDAs/GDSs are paid TRCA salary according to the work load so determined. They submitted that prior to the retirement of the earlier EDBPM Bilawas on 30.4.98, the work load of both the EDBPM/EDMC was reviewed, and it was reported that the total work hours of EDBPM and EDMC/DA were less than 4 hours i.e. 2 hours and 1.4 hour respectively for the 2 posts. On account of less work load on the post of EDMC/DA, that post was abolished vide letter dated 16.8.88, and the work of EDMC/DA was combined with the work of EDBPM, and combined duty allowance was also sanctioned accordingly.

6. The applicant, who was holding the charge of EDBPM, after the retirement of the previous incumbent, had given his consent in writing to work as EDBPM, and accordingly only the appointment order was issued in his favour on 23.8.98. It was further submitted that for the period between 30.4.88 and 22.8.88, the applicant was paid TRCA allowances admissible to EDMC only. The respondents averred that the impugned order had been passed in pursuance of the directions of this Tribunal in the earlier O.A. of the applicant, which order is just and proper, since the total hours of work of Bilawas

EDBPM and EDMC/DA were assessed ⁻⁶⁻ and found to less than 4 hours, and the post of EDMC/DA was to be abolished, which would have led to the applicant's retrenchment, he had been accommodated and appointed as EDBPM on the basis of his own willingness dated 24.10.88.

7. The respondents further averred that the contentions raised by the applicant have already been adjudicated upon by this Tribunal when the order dated 10.9.2008 had been passed in O.A. 288/2004, and in view of the review of the work load of EDBPM, it has been found that work of EDBPM is 68.71 points for delivery, and other work $56.84 + 89.58 = 146.42$ minutes, the total work load comes lesser than that shown by the applicant in this O.A.

8. The respondents further denied that any other benefit accrued to the applicant after combination of both the posts of ED^{BPM} and EDMC, as su. the applicant was appointed as EDBPM before the post of EDMC stood abolished, and no benefits of that post can be extended to the applicant. They had therefore justified their action and submitted that the applicant is not entitled to get any relief and the O.A. deserves to be dismissed.

9. We have heard the learned counsel for the parties and have gone through the material placed on record.

10. The learned counsel for the applicant emphasized repeatedly on the written statement filed by the respondents in the earlier O.A. No. 288/2004, produced in this O.A. at Annexure A/10.

He also emphasized on the Annexures R/7 to R/9 attached to the reply filed in the earlier O.A. The learned counsel also relied upon the

consolidated memo of work load showing the total workload of 115.60 points as produced by him at Annexure A/11.

11. After going through the contents of the documents referred to above, it is seen that the respondents had in para 4 of their reply, and in Annexure R/7 of their reply dated 24.4.2007, filed in O.A. NO. 288/2004, accepted that the work load of GDSBPM Bilawas comes to 113.74 points as per the review carried ^{out} for the year 2006, he and had filed at Annexure R/7 the computation/calculation sheet accordingly. The respondents had also accepted that since the work load of EDBPM Bilawas was combined with the duties of EDMC/DA, the applicant was also getting Rs. 100/- P.M. combined duty allowance, though the work load of GDSMC/MD had been assessed to have got reduced from 1.49 hours to 1.39 hours as per the computation sheet attached as Annexure R/8 to the earlier O.A. However, in the present O.A., the respondents have not been able to explain as to how the work load of the applicant as GDSBPM itself had got reduced from he 113.74 points to 68.1 he points as has been mentioned in Annexure A/1. We also do not find any satisfactory explanation for this change in computation in respect of the review of the work of GDSBPM, Bilawas, bringing down the work load to 68.71 points. While sanctioning the combined duty allowance of Rs. 100/ P.M. to the applicant, it has he been accepted that he also performs the work of the Mail distribution and mail carrier for a total of around two and half hours daily, 89.98 minutes plus 56.34 minutes.

12. Therefore, Prima facie it appears to us that if the applicant's submission in this regard and the respondents' own

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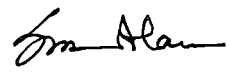
admission in April 2007 in this regard are correct, and the work load of the applicant as GDSBPM is above 75 points, at 113.74 points as had been assessed by the respondents at the time of their filing reply in the earlier O.A., and therefore a mistake appears to have crept in the impugned order dated 1.12.2008, in taking his work as GDSBPM alone to be much less at 68.71 points, as cited in the impugned order. At the work load of 113.74 points the applicant would certainly be entitled to the 2nd level of TRCA pay scale applicable to GDSBPM, which was prescribed w.e.f. 12.6.2003 to be Rs. 1600-2400/-, as claimed by the applicant.

13. In the result, the impugned order at Annexure A/1 is set aside, and the respondents are directed to pass a fresh speaking order in view of above observations, and then fix the appropriate pay scale of the applicant for the period of his service as EDBPM from 01.05.1988 onwards, from which date he became eligible for TRCA pay scale as EDBPM, and also eligible for the combined duty allowance for performing the duties of EDMC/DA in addition, within a period of 3 months from the date of receipt of a copy of this order, and then disburse the arrears, if any, admissible to the applicant within 1 month thereafter.

14. In view of above observations, the O.A. is allowed, however, there shall be no order as to costs.


(SUDHIR KUMAR)
MEMBER (A)

SK


(JUSTICE S.M.M. ALAM)
MEMBER (J)

दिनांक 2/4/16 के आदेशानुसार
मैट्रिक परीक्षा में दिनांक 9/4/16
को अंश-II व III नष्ट किए गए।

अनुमान अधिकारी
केंद्रीय प्रशासनिक अधिकरण
लोकपुर न्यायपीठ, जोधपुर