

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No.344/2012

Jodhpur this the 07th day of April, 2014.

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member

Mahendra Kumar Bhatnagar s/o Shri Pana Lal Ji Bhatnagar, aged 54 years,
r/o Basni Mutha Road, Sojat City, District Pali, official address- B.P.M.
Bilawas, Tehsil, Sojat City, District Pali.

.....Applicant



(Through Advocate Mr. R.K.Mishra)

Versus

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

(Through Advocate: Mr. Vijay Rajpurohit on behalf of Ms. K.Parveen)

.....Respondents

ORDER (ORAL)

Per Justice Kailash Chandra Joshi, Member (J)

The present OA has been filed by the applicant challenging the order dated 17.8.2011 (Ann.A/1) issued pursuant to the order dated 11.12.2008 passed in OA No.228/2009 earlier filed by the applicant and seeking the following reliefs:-

- i. The respondents may be directed to fix applicants pay in the pay scale 1600-2400 w.e.f. 1.5.88 and subsequently allow the benefit of allowances as ordered by this Hon'ble Tribunal vide their order dated 17.3.2011 on the post of EDMC and pay the arrear of pay and bonus.



- ii. Any other favourable 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.
- iii. Original Application filed by the applicant may kindly be allowed with costs.

2. Brief facts of the case, as averred by the applicant, are that he filed OA No.288/2004, which was disposed vide order dated 10.9.2008. In compliance to order dated 10.9.2008, the respondents passed order dated 11.12.2008, which was also challenged by the applicant by filing OA No.228/2009. This second OA was decided by this Tribunal vide order dated 17.3.2011 by quashing the impugned order and with direction to the respondents to pass a speaking order and then fix the appropriate pay scale of the applicant for the period of his service as EDBPM from 1.5.1988 onwards, from which date he became eligible for TRCA pay scale as EDBPM and the applicant will also be eligible for combined duty allowance for performing the duties of EDMC/DA in addition and disburse the arrears if any admissible. It is stated by the applicant that respondent No.3 instead of making compliance of the order of this Tribunal in verbatim has followed their norms and instructions issued by DG Posts, New Delhi vide order dated 15.7.87, 15.12.2009 and 16.12.2010 and passed in impugned order dated 17.8.2011 (Ann.A/1) paying Rs. 9671/- through acquaintance roll. According to the applicant, this act of the respondents transpire that they have applied the instructions retrospectively of DG Posts, New Delhi which were issued in the year 2009 and 2010 respectively instead of considering the fact that the case of the applicant relates to the year 1988. Therefore, aggrieved of the action of the respondents, the applicant has filed this OA for the reliefs as extracted above.

3. By filing reply to the OA, the respondents have denied the right of the applicant and submitted that in compliance of the order dated 17.3.2011 a detailed speaking order was issued vide Memo dated 17.8.2011 and Post Master, Pali was directed to arrange payment of due allowances and arrears. The Post Master, Pali drawn arrears of Rs. 9671/- as per order dated 17.3.2011 but the applicant refused to take the payment. According to the respondents, the order for fixation of pay scale was issued as per work load of EDBPM and combined duty allowance was ordered to be paid as per Rules since 1.5.1988 to 22.8.1988. Thereafter, the allowances of EDBPM along with CA and DA were paid as per workload, as the post of EDMC/DA was abolished since 23.8.1988. The respondents have further submitted that the pay and allowances were ordered as per workload from time to time as detailed in letter dated 17.8.2011 which is according to the workload and the existing rules, therefore, action of the respondents is perfectly just and proper being in accordance with the rules and instructions on the subject and the applicant is not entitled to have any relief.

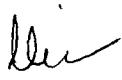
4. Heard both the parties. Counsel for the applicant contended that the applicant was directed to work as Post Master at Pali and vide earlier OA No.228/2009 which was decided on 17.03.2011, this Tribunal directed the respondent department to fix the appropriate pay scale for the period of his service as ED BPM from 01.05.1988 onwards, from which date he became eligible for TRCA pay scale as ED BPM, and also eligible for the combined duty allowance for performing duty of EDMC/DA in addition within a period of three months. It has been further contended that the applicant was paid the additional amount of salary for the post on which he was working and not paid the amount of salary which he has to draw as he was being posted as Post Master and thus, his claim for the additional pay was wrongly considered by the respondent department. Counsel for the applicant further

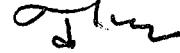
contended that the applicant has been paid Rs.9671/- as arrears, as per the order dated 17.03.2011 (Annexure-A/3) as the workload of the applicant as EDBPM was above 75 points and 113.74 points from the year 1988 and he was performing the duties of two posts i.e. EDBPM and EDMC and ipso facto the applicant is entitled to payment of salary and bonus respectively and his arrear of salary was wrongly calculated by the respondent department.

5. Per contra, counsel for the respondent department contended that when as per the order dated 17.3.2011 arrears of Rs.9671/- were paid to the applicant, then he filed a contempt petition No.04/2012 but the same was dismissed by this Tribunal.

6. Looking to the entire facts and circumstances of the case, it appears that this issue has already been decided by this Tribunal and the applicant is raising the same issue again, therefore, we are proposing to dispose of this application with certain directions.

7. Accordingly, the OA is disposed of with a direction to the applicant to file a detailed representation to the respondent department within a period of 15 days from the date of receipt of a copy of this order and the respondent department shall decide it within three months from the date of receipt of such representation by way of speaking order while considering the grievance of the applicant in view of the earlier decision of this Tribunal. There shall be no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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