

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 406/2013

Jodhpur, this the 25th day of November, 2014

CORAM

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

Tej Singh Chaudhary s/o Shri Baxa Ram, aged about 61 years, resident of Tankipura, Gachchipura, Distt. Nagaur, last employed on the post of APM Didwana HO Distt. Nagaur.

.....Applicant

By Advocate: Mr. J.K.Mishra

Versus

1. Union of India through Secretary to the Government of India, Ministry of Communication and IT, Deptt of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001
2. Post Master General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Nagaur Division, Distt. Nagaur (Raj.)

.....Respondents

By Advocate : Ms. K.Parveen

ORDER

Per Justice K.C. Joshi, Member (J)

The applicant in this OA has approached this Tribunal claiming the following reliefs:-

- (i) That impugned order dt. 21.7.2004 (Annexure A-1) to the extent of modifying the effective date of benefits under BCR scheme from 1.7.2004 to 2.4.2004 and the order dated 11.5.2013 (Annexure A/2), may be declared illegal and the same may be quashed. The respondents may be directed to allow all consequential benefits including revision of pension and retiral benefits and arrears of difference thereof may be directed to be paid along with interest market rate.
- (ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iii) That the costs of this application may be awarded.

2. The facts, so far as relevant for deciding the case, are that the applicant was initially appointed to the post of Postal Assistant (Time Scale Clerk) on 2.4.1978 in P&T Department. He was given benefit under the Time Bound One Promotion (TBOP) scheme on completion of 16 years of service w.e.f. 2.4.1994 and financial benefit of upgradation under 3rd MACP w.e.f. 1.9.2008. The applicant retired on attaining the age of superannuation on 30.11.2012. The applicant stated that as per BCR Scheme one who has completed 26 years of service as Postal Assistant became entitled for grant of benefit of financial upgradation. He has completed 26 years of service on 2.4.2004 and became due for grant of benefit under BCR Scheme, but he was granted the said benefit only from 1.7.2004. The pay of the applicant was revised under the Sixth CPC from 6200/- to Rs. 15740/- as on 1.7.2007 and one of his junior Shri Durga Ram Choyal was fixed at Rs. 15740/- who was initially appointed on 3.10.1978 and got promotion under TBOP and BCR w.e.f. 7.10.1994 and 1.1.2005. Thus, he always remained junior to the applicant. Further, the Govt. of India, Ministry of Finance issued OM dated 19.3.2012 whereby one extra increment has been allowed to person who was due for grant of increment during the period from January to June 2006. Shri Durga Ram was granted the said benefit from 1.1.2006 and his pay came to be revised to Rs. 16020/- but the applicant has not been granted the same as his date of grant of benefit under BCR scheme itself fell on 1st of July. The applicant has raised his grievance for stepping up of his pay at par with his junior through representation but the same has been turned down on the ground that due to grant of one increment to his junior having date of increment during the period of January 2006 to June 2006. According to the applicant, the whole episode has been due to grant of benefit of BCR restructuring scheme from 1.7.2004 instead of actual date of 2.4.2004. Had he been granted the said benefit from the due date, his date of increment would have also fallen between January 2006 to June 2006 and he would have enjoyed one

extra increment, which his next junior has got. Therefore, aggrieved with the inaction on the part of the respondents, the applicant has filed this OA praying for the reliefs as stated above.

3. In reply to the OA, the respondents have submitted that it was a policy decision of the Department of Posts to extend the benefit of BCR to the officials completing 26 years of regular service between the period from 1st January to 30th June and 1st July to 31st December w.e.f 1st July and 1st January respectively and, therefore, the applicant was not entitled to get this benefit from the date he actually completed 26 years of service. He had completed 26 years of service on 2.4.2004 and was accordingly entitled to get the benefit of BCR w.e.f. 1.7.2004 which was allowed to him. According to the respondents, the benefit of stepping up of pay with junior employee is admissible only in the cases, in which the anomaly in pay between the senior and junior employee has occurred as a result of fixation of pay on promotion. The applicant was given option to adopt his date of fixation of pay within time limit as per Ann.A/1 but he did not take benefit of the opportunity and promotion of BCR given to him w.e.f. 1.7.2004. Hence, he was not entitled to get the benefit of OM dated 19.3.2012 and benefit of one extra increment was not given to him.

4. Heard both the parties. After hearing the parties and perusing the record, we are of the view that the controversy involved in this OA has already been settled by the Full Bench of the CAT-Chandigarh Bench sitting at Jammu in the case of Piram Ditta and 25 Others vs. Union of India and Others reported in 2005 (1) ATJ 430 which was also followed by this Bench in OA No.41/2004 decided on 7.11.2006. Therefore, in view of the decision of the Full Bench (supra), followed by this Bench vide order dated 7.11.2006 in OA No.41/2004, the impugned order Ann.A/1 and A/2 cannot be sustained in the eyes of law, qua the applicant.

5. Accordingly, OA is allowed and Impugned order Ann.A/1 and A/2 are quashed qua the applicant with direction to the respondents to extend the due

benefits under BCR Scheme from the date he has completed 26 years of satisfactory service and fix the pay of the applicant accordingly with consequential benefits including revision of pension and retiral benefits within a period of three months from the date of receipt of a copy of this order.

6. No order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member



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