

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 417
T. A. No.

1990

DATE OF DECISION 8.4.91

P. Ramankutty Nair _____ Applicant (s)

Mr. John Mathai _____ Advocate for the Applicant (s)

Versus

Director General, Deptt. of Posts
New Delhi _____ Respondent (s)

Mr. TPM Ibrahim Khan _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

1. The applicant filed this application while he was working as Sr. Supdt. , RMS "EK Division" Ernakulam for a direction to the respondents to step up his pay to Rs. 960 with effect from 1.12.1982. He has also sought for directions to dispose of Annexure A-4, A-6, A-7, A-8 and A-9.

2. His case is that he joined the Postal Department as Assistant at Calicut Head Post Office on 13.6.55 and he got promotion as Postal Inspector on 5.9.1963, Assistant Supdt. of Post Offices on 31.3.75 and as Indian Postal Service earlier Group A on 28.2.89. The applicant was/continuously working

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in Group B post from 8.5.79. His pay in SSP Group B was fixed at Rs. 810 on 8.5.79; so he was drawing a pay of Rs. 960/- from 1.5.83. When he was promoted as HSG I Postmaster on 9.6.78 from Asstt. Supdt. of Post Offices, that post was not carrying duties and responsibilities of greater importance than the post of Asst. Supdt. of Post Offices as per letter No. 6-26/73 SPM-11/PL dated 5.10.74. But in 1980 the Asstt. Director General issued letter No. 8-36/78/PAP dated 17.9.80 regarding fixation of pay of Asst. Supdts. of Post Offices appointed to the post of Higher Selection Grade-I. The letters Annexure A-1 and A-2 *relevant portion of Annexure A-2* and *it* reads as follows:

"I am directed to refer to the P & T Directorate's letter No. 31-1/74-PE-I dated 19.6.74 regarding the introduction of two grades in HSG-I and HSG-II in Post Offices and to state that the appointments of Asst. Supdts. of Post Offices to the posts of HSG-I Post Master was to be treated as not involving higher duties and responsibilities and pay to be fixed under the provision of FR 30 read with FR 22(a)(ii). In supersession of the aforesaid decision, the President is now pleased to decide that the appointment of Asstt. Supdt. of Post Offices in the scale of 550-900 to the post of HSG-I Postmaster in the scale of 700-900 shall henceforth be treated as involving higher duties and responsibilities and pay fixed under the provisions of FR 22-C."

3. The applicant was entitled to fixation of his pay under Annexure A-2. But his pay was not fixed according to the provisions of FR 22(c) considering the pay fixation of the junior Sri S. M. Sundaram who was also working in that Higher Selection Grade-I Post Master. Hence the applicant had filed Annexure A-4 representation dated 17.5.84 wherein it has been stated that he was working as PSS Group-B post continuously from 8.5.79, but his pay in PSS Group B was fixed at Rs. 810 on 8.5.79. He was drawing a pay at Rs. 960 only from 1.5.83.

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but Shri Sundaram who was his junior in the lower cadre was drawing at Rs. 960/- w.e.f. 1.12.82. Accordingly, the applicant requested that the respondents may order stepping up of his pay to the extent of Rs. 960/- w.e.f. 1.12.82 as his case cannot be distinguished from the case of Shri Sundaram. Since he did not get any reply, he filed reminders and subsequent representations at Annexure-6, Annexure 7 and Annexure-8.

4. Since all these representations did not evoke any response from the respondents, the applicant filed this application under section 19 of the Administrative Tribunals Act of 1985. During the pendency of this application, the applicant retired from service on 31.5.90.

5. The respondents have filed a reply affidavit in which they have not denied the fact that the applicant is entitled to stepping up of his pay taking in to consideration the pay that was given to his junior Shri Sundaram. In fact, they have admitted the eligibility of the applicant for the stepping up of his pay in the post of HSG-I Post Master. His representation dated 17.5.84 at Annexure-4 claiming stepping up of his pay with reference to his junior Sri S. Meenakshi Sundaram has been examined in detail by the office of the PMG and he forwarded on 1.8.86 a proposal with relevant details to the Director General, Deptt. of Posts, who is the competent authority to deal with the matter. It is submitted that the representations of the applicant for

stepping of his pay are pending without being disposed of by the competent authority.

6. We have heard the counsel on both sides and perused the records carefully. Having heard the matter we are of the view that this application can be disposed of with directions particularly when there is no dispute about the claim of the applicant for getting stepping up of his pay in the post of HSG-I. Since the facts have not been disputed or denied by the respondents, it is to be presumed that the applicant is entitled to the relief as prayed for in the application; but since the representations are pending before the departmental authorities we are not deciding the issue finally.

7. As indicated above we are of the view that interest of justice would be met in this case if this application is disposed of with direction after holding that the statement of the respondents in the counter affidavit that as a policy the Government would not give effect to stepping up of pay to a retired Government employee after his retirement even if he is eligible for the same, is not acceptable. We are not prepared to accept the contention of the respondents particularly when they had not denied the eligibility of the applicant for getting the stepping up of pay from the date of his claim. This policy statement relied upon in the counter affidavit appears to be not a reasonable one to be accepted by us on the facts and circumstances of the case.

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The applicant started agitating the matter right from 1984 onwards and admittedly, the respondents have considered the grievance of the applicant and forwarded xx the claim to the Director of Postal Services, who is the competent authority, as early as on 1.8.86 for consideration and disposal. But no order has been passed in this behalf. Simply due to the departmental delay and the default of ~~making~~ the Director in the disposal of the grievance of the applicant, the applicant should not be denied of the benefit on the alleged policy statement mentioned in the counter affidavit. There was no delay or default on the part of the applicant. He filed the application before his retirement. Hence he is entitled to stepping up of pay as claimed by him notwithstanding the policy of the Government.

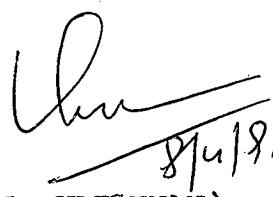
8. Accordingly, we direct the first respondent to consider the representation ^{An 4/2} stated to have been placed before him by the ~~applicant~~ ^{Director General} on 1.8.86 along with ^{Other 1} representations at Annexure 6 & 8 and pass appropriate orders on the same in accordance with law taking into consideration the observations in this judgment. This shall be done within a period of six weeks from the date of receipt of a copy of this judgment.

9. There will be no order as to costs.


(N. DHARMADAN)

JUDICIAL MEMBER

8.4.91.


(N.V. KRISHNAN)
ADMINISTRATIVE MEMBER