

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 450/89

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DATE OF DECISION 3.10.1990.

K. Damodaran Nambiar Applicant (s)

M/s PK Mohammed & Advocate for the Applicant (s)
Grashious Kuriakose
Versus

The Post Master General, Respondent (s)
Kerala Circle, Tvm. and 2 others

Mr. N.N. Sugunapalan Advocate for the Respondent (s)
Sr. SCGSC.

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?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? >
4. To be circulated to all Benches of the Tribunal? >

JUDGEMENT

(Per N.V. Krishnan, Administrative Member)

The question for consideration in this case is whether the Mail Overseer in the Postal Department is entitled to the pay scale of Rs.260-350 w.e.f. 1.1.75 or from 1.1.78, the date from which itself it was made admissible to him.

2. The brief facts giving rise to the question are as follows:-

2.1 The applicant is a Mail Overseer from 1972 and he retired from service from that post on 30.4.84. The original pay scale of the Mail Overseer was Rs.225-350 and at the time of retirement, the applicant was drawing a pay of Rs.260 plus

the admissible allowances.

2.2 A slightly higher pay scale of Rs.260-350/- was allowed by the Annexure-A order dated 7.6.78 of the Director General of Posts & Telegraphs (DG, P&T, for short) to 9 categories of officials working in the Postal Department, including the Mail Overseer, Head Mail Guard and Sorting Postman w.e.f. 1.1.78.

2.3 However, by a subsequent order dated 3.6.83 (Annexure-B) of the same authority, the higher pay scale was made applicable in the case of Sorting Postman and Head Mail Guards w.e.f. 1.1.75 instead of w.e.f. 1.1.78. This change was directed to be made in compliance with an Award of a Board of Arbitration as Mentioned in the Annexure-B order.

2.4 The applicant's claim that the benefit of the higher pay scale should also be given to the Mail Overseers from 1.1.75 is based on the ground that according to the P&T Manual, the posts of Sorting Postman, Head Mail Guards and Mail Overseers are in a single gradation list and the persons are inter-changeable from one post to another. It is contended that this stand derives full support from an earlier decision of the Madras Bench of the Central Administrative Tribunal in TA 8/68 of 1986. The applicant also contends that, otherwise this will

amount to discrimination by granting the higher pay scale to only 2 categories of similarly situated officials, instead of all the categories.

3. The respondents have filed a reply affidavit in which the facts as mentioned by the applicant have been admitted, but not the contentions raised by him. It is stated that the Award of the Board of Arbitration related to only the Sorting Postmen and the Head Mail Guards. Hence, the other categories of staff to whom the higher pay scale was made available from 1.1.78 by the Annexure-A order of the DG, P&T, ~~will not be entitled~~ to that scale w.e.f. 1.1.75. It is stated that this position has been fully clarified by the DG, P&T in his letter dated 2.12.88 (Annexure-R-1). This letter refers to the grant of higher pay scale of Rs.260-350 to the following 11 categories of persons, i.e., 1. Sorting Postmen, 2. Head Mail Guards, 3. Head Postmen, 4. Reader Postmen, 5. Overseer Postmen, 6. Cash Overseers, 7. Mail Overseers, 8. Departmental Branch Postmasters, 9. Mail Escorts, 10. Selection Grade Postmen and 11. Selection Grade Mail Guards.

4. The Department recognised that as a result of the implementation of the Award of Board of Arbitration in the aforesaid manner, an anomaly was created as the pay of the senior officials of the remaining 9 categories of persons was less than their juniors in the category.

of Sorting Postmen and Head Mail Guards who were drawing in Annexure R1 letter dated 2.12.88 higher pay. It was, therefore, decided as follows:-

"2. After a careful consideration and in consultation with the Department of Personnel and Training and Ministry of Finance it has been decided that in order to remove the aforesaid anomaly the pay of the senior persons of any of the nine categories mentioned at Serial 3 to 11 above should be stepped up to a figure equal to the pay as fixed in respect of the junior person of category mentioned at serial 1 and 2 above from the date of occurrence of anomaly viz. the date on which the pay of the junior person is refixed in the revised scale of pay. If the date of occurrence of anomaly falls before 1.1.1978, the pay of the senior may be stepped up notionally from the date of occurrence of anomaly and the actual benefit may be given from 1.1.1978 only. The stepping up of pay of the senior would be subject to the following conditions, namely

(a) Both senior and junior should belong to the same cadre, The senior should belong to the categories mentioned at S1. 3 to 11 above and junior should belong to the categories mentioned at serial 1 and 2 above only.

(b) The anomaly should have arisen directly due to implementation of instructions contained in this Directorate letter No.1-4/77-PAP dated 3.6.1983.

(c) The stepping up of pay is allowed with reference to the pay of the first junior as per C&AG decision vide letter No.2117-NCE-1/3/68/I dated 11.1.68.

3. The orders refixing the pay of the senior person in accordance with the instructions contained in this letter should be under FR 2 and the next increment of such senior will be drawn on completion of the required qualifying service from the date of refixation of pay."

5. It is contended in the reply affidavit that only Sorting Postmen and Mail Guards are in the same seniority list. The Head Mail Guard is in another seniority list. It is affirmed that no Sorting Postmen junior to the applicant was drawing a higher pay on account of the implementation of the Annexure-B letter giving benefit of fixation of pay from 1.1.1975. Hence, there was no case for stepping up the pay of the applicant. The respondents also submitted that the decision of the Madras Bench of the Tribunal does not apply as the facts are distinguishable.

6. For these reasons, it is argued that the applicant has no case and the application has to be rejected.

7. We have heard the counsel of the parties and also perused the records. It is seen from the Annexure-R1 order that the Postal Department itself was conscious of the fact that the implementation of Annexure.B order granting benefit of the higher pay scale from 1.1.75 to Sorting Postmen and Head Mail Guards - no doubt, necessitated by the Award of the Board of Arbitration - would create anomalies in the matter of pay, as between persons belonging to the two categories of persons to which the Annexure B order applied and the remaining 9 categories to which the benefit of the higher pay scale was given only from 1.1.78. Therefore, without extending the benefit of the higher revised pay scale to the remaining 9 categories also, the interest of the senior persons belonging to these categories was protected by making a provision (vide extract in para 4 supra) for stepping up of their pay to make it equal to that of any junior person belonging to the categories of Sorting Postmen and Head Mail Guards, if they were drawing more pay. We are, therefore, of the view that full justice has been done by issuing this direction.

8. The reply affidavit states that in the case of the applicant such an anomalous situation did not arise and hence, his pay was not raised. The applicant has not

denied this contention. We are, therefore, fully satisfied with this reasoning of the respondents.

9. We have perused the decision of the Madras Bench of the Tribunal in TA 888/86 and find that it is distinguishable on facts. In that case, the applicant was working as a Sorting Postman from 1.1.75 to 30.1.76. From 31.1.76 to 31.7.83 on which date he retired, he was working as an Overseer Postman. He got the benefit of higher pay scale from 1.1.75 to 30.1.76 as he was working as a Sorting Postman then. He also got the benefit of higher pay scale from 1.1.78 on the post of Overseer Postman because of the operation of Annexure-A order. Though he was also posted on the higher pay scale for the period from 31.1.76 to 31.12.77, he was ordered to repay the difference between the ordinary pay scale and higher pay scale. He was, thus, not allowed the benefit of the higher pay scale during the period in between i.e., from 31.1.76 to 31.12.77 while working as Overseer Postman, because he was not entitled to the higher scale on this post in terms of either the Annexure-A ~~xxx~~ or the Annexure-B orders. For the Annexure-B order gave benefit thereof to only 2 categories of posts from 1.1.75 (i.e., Sorting Postman and Head Mail Guards) and the Annexure-A order which applied to the Overseer Postman gave the benefit only from 1.1.78. In the aforesaid judgment, there is no clear declaration that there was discrimination on the ground of denial of equal

pay for equal work. What had weighed with that Bench was that, on his being posted on 31.1.76 as Overseer Postman, the applicant therein neither informed that he was being shifted to a post on a lower scale of pay nor was that a transfer on his own request, but was really made to suit administrative convenience. It is in these circumstances that the Bench held that the order directing the recovery of overpayment for the period from 31.1.76 to 31.12.77, after the retirement of the applicant therein, without even giving him a show cause notice, was not in order.

10. Hence, that application was allowed. We are of the view that the aforesaid judgment cannot be taken to lay down the rule that both the posts of Sorting Postman and Overseer Postman carry equal work and have to be given the same scale of pay. Further, the Annexure B order was as a result of an arbitration by a Board of Arbitration which applied to 2 categories of cases only.

11. In the circumstances, we find that the applicant cannot claim the benefit of the higher pay scale from 1.1.75 on the ground that this has been allowed to the Sorting Postman and the Head Postman in certain special circumstances. Therefore, this application lacks of merits and is dismissed. In the circumstances, there will be no order as to costs.



3. p. 90.

(N. Dharmadan)
Judicial Member


3.10.1990

(N.V. Krishnan)
Administrative Member

3.10.1990.