

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.455/99

Tuesday, this the 4th day of September, 2001.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Joseph Rahul,
Junior Accounts Officer,
O/o the Deputy Director of Accounts(Postal),
Trivandrum. - Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. The Director General,
Department of Posts,
New Delhi-1.
2. The Deputy Director of Accounts(Postal),
Trivandrum-1.
3. Union of India represented by the
Secretary to Government of India,
Ministry of Communications,
New Delhi. - Respondents

By Advocate Mr KR Rajkumar, ACGSC

The application having been heard on 4.9.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

While the applicant was working as Postal Assistant in the scale of Rs.1400-2300 having passed the Junior Accounts Officer Examination (Part-II), he was granted officiating promotion as Junior Accounts Officers(JAO for short) in the Telecom Department on deputation basis from 2.8.91 to 27.6.94

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in the scale of Rs.1640-2900. His pay was fixed giving him the benefit of FR 22 I(a)(i). The applicant was reverted to the cadre of Inspector of Post Offices with effect from 27.6.94 and again was given officiating promotion as JAO from 9.2.96 to 8.4.96. Then again his pay was fixed (A-2) at Rs.1760/- under FR 22 I(a)(i) while his pay in the cadre of Inspector of Post Offices was Rs.1650/-. The applicant was further reverted and was again promoted on 12.6.96 on officiating basis (A-4) and his pay was again fixed under FR 22 I(a)(i). The applicant was thereafter regularly promoted as JAO on 24.9.96 and he continued in that post. The present grievance of the applicant is that an order dated 15.5.98(A-9) has been issued refixing the pay of the applicant under FR 22 I(a) (2) in the scale of pay of JAO of Rs.5500-9000 for the period of officiating service from 9.2.96 to 8.4.96 and at Rs.6025/- with effect from 12.6.96 with due date of next increment at the stage of Rs.6200/- with effect from 1.5.97, purportedly consequent on the revision of pay scale of IPOs/IRMs to Rs.5500-9000 with effect from 1.1.96. The applicant has challenged the retrospective refixation of his pay made by A-9 order to his detriment and sought a declaration that the pay of the applicant is liable to be fixed under FR 22 (1)(a)(i) on his officiating as well as regular promotion as JAO and for a direction to the respondents to fix the pay of applicant under FR 22(1)(a)(i) on his officiating promotion as JAO during 9.2.96 to 8.4.96 as well as during his regular promotion as JAO from 12.6.96 and to grant him consequential benefits.

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2. In their reply statement, the respondents admit that the pay of the applicant was fixed giving him the benefit of FR 22 I(a)(i) correctly when he was given ad hoc promotion and regular promotion, but seek to justify the impugned action on the ground that the pay of the post of JAO as also Inspector of Post Offices have been made equal by an order dated 6.4.98 and therefore, the fixation under FR 22 I(a)(i) did not arise as there could not have been be deeming of higher responsibilities on applicant as JAO from Inspector of Post Offices.

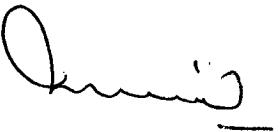
3. We have gone through the pleadings and other material placed on record and have heard the learned counsel on either side. It is not in dispute that at the time when the applicant was promoted on officiating basis as also on regular basis in 1996, the pay of the post of Inspector of Post Offices was Rs.1400-2300 and the scale of the post of JAO was Rs.1640-2900. So at the time when the applicant was promoted, the promotion was from a lower post to higher post and involved assumption of higher duties and responsibilities. So it was not on the basis of any deeming but on actual fact that the pay fixation was done, under FR 22 I(a)(i) rightly at the relevant time. The fact that in 1998, the scale of pay of the post of Inspector of Post Offices as also that of JAO were made on par with effect from 1.1.96 does not mean, the level of duties and responsibilities of JAO and that of Inspector of Post Offices were always one and the same. For application of FR 22 I(a)(i) at the time of appointment, the post on which **appointment** was made must be a higher post with higher duties

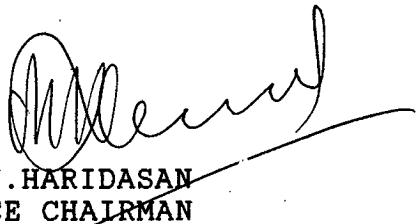
and responsibilities. Prior to the order making the scale of pay of Inspector of Post Offices on par with the pay of JAO by 1998 order, JAO carried a higher pay scale and was therefore a higher post. Therefore, as the pay of the applicant was fixed while promotion on ad hoc basis as also on regular basis correctly and in accordance with the rules then in existence, we are of the considered view that the refixation of the pay of the applicant to his detriment is not called for.

4. In the light of what is stated above, the impugned order is set aside and the respondents are directed to restore the pay fixation of the applicant made earlier unaffected by the impugned order and to give him all consequential benefits. The above direction shall be complied with within a period of three months from the date of receipt of copy of this order.

5. The O.A. is disposed of as above. No costs.

Dated, the 4th of September, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

1. Annexure A-1 : True copy of the Pay Fixation Memo No. Q-20/3 dated 6.11.'91 issued by the Accounts Officer, Office of the Telecom District Manager, Kollam.
2. Annexure A-2 : True copy of the Pay Fixation Memo No. 9(5)EE-TVM/96/31A, dated 12.3.96 issued by the Executive Engineer, Postal Civil Division, Trivandrum.
3. Annexure A-3 : True copy of the Office Memo dated 17.9.'96 No.9(5)EE-TVM/96/1001 issued by the Executive Engineer, Postal Civil Division, Trivandrum.
4. Annexure A-4 : True copy of the Office Order dated 27.6.'96 No.28/Admn.I/E.III/PF issued by Senior Accounts Officer (Admnistration), Office of the 2nd respondent.
5. Annexure A-5 : True copy of the Office Order dated 13.11.'96 No.73/Admn.I/E.III/PF issued by the Senior Accounts Officer (Administration) office of the 2nd respondent.
6. Annexure A-6 : True copy of the Statement of Fixation of pay under CCS (Revised) Pay Rules, 1997 dated 13.1.'98 issued by the Post Master, Thycaud H.O.
7. Annexure A-7 : True copy of the Office Order No.115/Admn I/ E III/PF-36, dated 3.3.98 issued by the Senior Accounts Officer(Administration) Office of the 2nd respondent.
8. Annexure A-8 : True copy of the Office Order No.123/Admn.I/ E.III/PF-36 dated 19.3.'98 issued by the Senior Accounts Officer, Office of the 2nd respondent.
9. Annexure A-9 : True copy of the Office Order No.11/Admn-I/ E.III/PF-36 dated 15-5-'98 issued by the Senior Accounts Officer, Office of the 2nd respondent.
10. Annexure A-10 : True copy of the representation dated 27.5.'98 submitted by the applicant to the 1st respondent.
11. Annexure A-11 : True copy of the reminder dated 17.11.'98 submitted by the applicant to the 1st respondent.