

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 49 of 1999

Tuesday, this the 27th day of November, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. S. Renganatha Iyer,
Console Operator, Computer Cell,
Office of the Chief Post Master General,
Thiruvananthapuram-33Applicant

[By Advocate Mr. P. Santhalingam]

Versus

1. Union of India,
Rep. by its Secretary,
Ministry of Communications,
New Delhi.

2. Director General (Posts),
New Delhi.

3. The Chief Post Master General,
Kerala Circle,
Thiruvananthapuram.Respondents

[By Advocate Mr. R. Prasanthkumar, ACGSC]

The application having been heard on 27-11-2001, 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 Section Supervisor in Mail Section of the Office of Chief Postmaster General, Trivandrum, there was a proposal for computerization of the Postal Life Insurance Section and applications were called for from Section Supervisors and Upper Division Clerks for the post of Data Entry Operators and Console Operator (Annexure A-I dated 15-10-1993). The applicant applied, was selected, imparted training and was directed to report to PLI Computer Centre by letter dated 15-11-1994 (Annexure A-V). The applicant reported and started attending the duties of Console

Operator. In the notification A-I it was mentioned that officials selected to work as data entry operators and Console Operator would be eligible for a special allowance equivalent to 2 increments. However, the applicant was not given the special allowance. His representation claiming the special incentive allowance was rejected ultimately by the impugned order dated 11-6-1997 (Annexure A-IX) stating that as the proposal for creation of computer related posts has not been acceded to by the Directorate as the Ministry of Finance refused to agree to the proposal and in view of the clarificatory instructions contained in DG(Posts) letter dated 15-4-1993 allowing two advance increments to all those personnel who are working on computer or computer related job in PLI etc. had been withdrawn by letter No.43-3/93-PMR dated 20-4-1993, the claim of the applicant is not sustainable. The applicant aggrieved by that has filed this application seeking to have the impugned order A-IX set aside and for an order allowing the special allowance equal to two increments to the applicant from 16-11-1994 for the period he had worked on computer as Console Operator in the PLI Centre and to fix the applicant's pay in the scale of pay of Console Operator Rs.1400-2600 with effect from 16-11-1994 with all consequential benefits.

2. Respondents resist the claim of the applicant on the ground that the proposal for creation of computer related posts was turned down, that the posts were never created and the applicant having not been appointed to that post is not entitled to claim the special allowance equal to two increments.

3. We have gone through the details, pleadings and all the materials brought on record and have heard Sri P.Santhalingam, learned counsel of the applicant and Sri R.Prasanthkumar, learned counsel of the respondents. That it was held out in the notification dated 15-10-1993 (Annexure A1) that those who work as Data Entry Operators and Console Operator would be eligible for a special allowance equal to two increments, that the applicant was selected, that training was imparted to him and that he had been performing computer related job of a Console Operator, are facts which are beyond dispute. Respondents resist the claim of the applicant on the ground that the selection and utilisation of the applicant on computer related job was so done by the Assistant Postmaster General without authority, since the proposal for creation of computer related posts had been rejected by the order dated 7-11-1996 (Annexure R3(b)). It is evident from the Government of India, Ministry of Communications (Department of Posts) letter dated 4-9-1986 (Annexure R3(a)) that eligibility to the pay of computer related post would accrue on the official being formally appointed on a post. In paragraph-4 of the said letter it has been, inter alia, stated as under:-

"No permanent appointments against the posts will be made and persons appointed against them will work only on secondment basis. During the period of training and for acquiring experience and until a person has been found suitable and actually appointed to a computer related post, he/she will continue to hold his/her post and will also draw his/her pay as otherwise admissible. Only after appointment to the computer related post, an official will become entitled to the pay of that post. If a person is already working in an identical scale of pay he/she will be granted two increments after a formal appointment to the computer related post."

[Emphasis ours]

4. In this case, it is evident that the post of Console Operator or Data Entry Operators had never been created and the applicant had never been formally appointed to the post. Even

in the letter of the Chief Postmaster General addressed to the Deputy Director General dated 11-11-1994 (Annexure A-XVIII) it has been stated that approval for creation of posts is required for grant of additional increments and therefore the request was made for according sanction. The applicant was put to work in a computer related job without the sanction of the competent authority for creation of posts and to make appointment. It is very unfortunate that the Circle Head had acted without approval of the Director General (Posts) for creation of posts. Unfortunately the applicant has been made to perform additional duties without any extra remuneration for that. However, as the action of the Circle Head was not with due authority, we are of the considered view that it does not give rise to any legal consequence conferring on the applicant a legal right to get additional remuneration.

5. Learned counsel of the applicant invited our attention to the ruling of the Apex Court in Secretary-cum-Chief Engineer Chandigarh vs. Hari Om Sharma & Others [AIR 1998 SC 2909], wherein it has been observed that an official having been put to work on a post should be entitled to the remuneration attached thereto. In that case there was a promotion from a lower post to a higher post. In the instant case, there has not been any promotion or appointment. In the light of what is contained in R3(a) that additional increment would be due only on an official being formally appointed, we are of the considered view that the applicant cannot claim the extra remuneration. The ruling cited by the learned counsel of the applicant does not apply to the facts of this case.

6. Learned counsel of the applicant next referred to a ruling of the High Court of Kerala in Valsamma Joseph vs. St. Thomas College [1993 (2) KLT 27], wherein it has been held that

an official though not regularised should be entitled to the remuneration of the post. There again, the post was in existence. In the instant case, since no post at all was created, the applicant cannot claim the remuneration. The learned counsel then referred to the provisions of FR 22(1)(a)(i). According to the learned counsel, since the applicant has shouldered higher responsibilities attached to a higher post, he is entitled to the benefit of higher pay. We are afraid FR 22(1)(a)(i) has no application at all as there has not been any appointment of an official holding a lower post having lower responsibility and pay scale to a higher post having higher responsibility and higher pay scale.

7. In the light of what is stated above, we are of the considered view that the applicant is not entitled to the reliefs sought for in the application. However, it is seen that the Government of India, Ministry of Communication (Department of Posts) has issued Annexure A-XX letter to all Chief Postmasters General on 3-4-1998 regarding incentive for use of computers. It is seen that PAs/SAs working on computer are being paid Rs.100/- per month for working on computers and details of such officials were called for. If the PAs/SAs working on computer are being paid some additional remuneration, the counsel of the applicant pleads that there may be a direction to the 2nd respondent to consider the request of the applicant for granting some additional remuneration to the applicant in similar lines. In this regard, we permit the applicant to make a representation inviting attention to the relevant facts within a month with specific mention of Annexure A-XX and direct the 2nd respondent to consider the representation, if any received, bearing in mind the peculiar facts of the case and that as a matter of fact additional duties relating to Computers were performed by

the applicant and to give the applicant an appropriate order within three months from the date of receipt of the representation.

8. The application is disposed of accordingly without any order as to costs.

Tuesday, this the 27th day of November, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

ak.

APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1 True copy of the circular No.LI/2-21/93 dt. 15.10.1993 issued by Asst. Post Master General (PL I), Trivandrum.
2. Annexure AII True copy of Office Letter No.LI/2-21/93 dated 16.12.93 issued by Asst. Post Master General (PL I), Tvm.
3. Annexure AIII True copy of the Office letter No.12(26)/93-Tvm. dt. 24.1.1994 issued by Senior Systems Analyst.
4. Annexure AIV True copy of the Memo No.LI/2-21/93-94 dated 18.4.1994 issued by Asst. Post Master General (PLI), Trivandrum.
5. Annexure AV True copy of the Memo No.LI/2-21/93-94 dated P.L.I.), Tvm.
6. Annexure AVI True copy of the Section Inspection report vide Endt.No.APMG(PLI)/O&M/INSPN dated 30.12.1994 by Asst. Post Master General (P.L.I.)
7. Annexure AVII True copy of the direction issued by Ministry of Communication No.13-28/95-LI dtd. 2.8.1995 to all Chief Post Master General's.
8. Annexure AVIII True copy of the Order No.31-3/94/PE-II dated 12.5.1994 issued by Asst. Director General (PE-II), New Delhi.
9. Annexure AIX True copy of Office letter No.EST/312/93 dated 11.6.1997 issued by Asst. Director(Estt.), Trivandrum.
10. Annexure AX True copy of the Inspection Report of Asst. Director PLI for Quarter ending dtd.30.9.97.
11. Annexure AXI True copy of the Inspection Report of Asst. Director PLI for Quarter ending on 31.12.97.
12. Annexure AXII True copy of the Inspection Report of Dpty. General Manager of PLI Branch of Kerala.
13. Annexure AXII(a) True copy of the Invitation Card showing that PLI centre is dedication by Secretary on 24.2.96.
14. Annexure AXIII True copy of the letter No.LI/1-1/R1gs/98 (Pt) dtd. 17.9.99 issued by Asst. Director, PLI.
15. Annexure AXIV True copy of the Notice No.2/95 dtd. 10.4.95 issued by Asst. Post Master General(PLI).
16. Annexure AXV True copy of the letter dtd.7.6.94 sent by Chief Post Master General, Trivandrum to Directorate.
17. Annexure AXVI True copy of the letter dtd.20.9.94 sent by Directorate to Chief Post Master General.
18. Annexure AXVI(a) True copy of the letter No.31/3/94-P.II dtd.13.7.94 sent from postal Directorate to 3rd respondent.
19. Annexure AXVII True copy of the Clarificatory order No.22.5.95-PE-I dtd. 3.8.97 by G.I. Department of Posts.
20. Annexure AXVIII True copy of the letter No.Est/3-10/93 dtd.11.11.94 sent by Chief PMG, Tvm. to the Directorate.
21. Annexure AXIX True copy of the clarificatory order No.43-3/93-PMR dtd.16.4.93 issued by M/o Communications, Dept. of Posts.
22. Annexure AXX True copy of the details showing 125 officials of Kerala Circle is relieving Computer related incentive as on 8/98.

RESPONDENT'S ANNEXURE

1. Annexure R3(a) Copy of Department of Posts letter No.31-29/86-PE.II dated 4.9.1986 addressed to the then Chief PMG, Kerala, Kerala Circle, Tvm.
2. Annexure R3(b) Copy of Department of Posts letter No.31-3/94-PE.II dtd. 7.11.1996 addressed to the then Chief Postmaster General, Kerala.
3. Annexure R3 Order No.43-3/93 PMR dtd. 20.4.1993 of D.G. of Posts, New Delhi.
4. Annexure R4 Order No.43-3/93-PMR(Pt.II) dtd. 17.1.1994 of D.G. of Posts, New Delhi.
5. Annexure R5 Order No.43-3/97-Tech. dt. 21.10.1997 of D.G. of Posts, New Delhi.
6. Annexure R6 Order No.Est./3/17-1/97(Pt.) dtd. 29.8.1997 issued by Shri K.M. Kumaran, Asst. Director(Establishment), Office of CPMG, Kerala Circle, Trivandrum.
7. Annexure R7 Order No.4-75/92-SPB-II dtd. 18.6.1993 issued by D.G. of Posts, New Delhi.
8. Annexure R8 Letter No.LI/20-19/2000 dated 3rd July 2000 sent by Shri R. Angappan. Office of the Chief PMG, Tamil Nadu Circle, Chennai.

.....