

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
~~XXXXXX~~ 50/91

XXX

DATE OF DECISION 3-8-92.

Achamma Samuel Applicant (s)

Mr. Thomas Mathew Advocate for the Applicant (s)

Versus

Senior Superintendent of Respondent (s)  
Post Offices, Pathanamthitta  
and 5 others.

Mr. K.A.Charian, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S.Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgement? Y
4. To be circulated to all Benches of the Tribunal? N

JUDGEMENT

MR. N.DHARMADAN, JUDICIAL MEMBER

Applicant, a Postal Assistant, filed this application under Section 19 of the Central Administrative Tribunals Act, 1985 to quash Annexure-R1/rejecting her claim under Annexure-A18 to revise retrospectively the pay scale of Rs.425-640 from the date of re-deployment and pay consequential benefits including arrears and grant her promotion under the TBOP scheme.

2. The applicant was appointed as LDC in 'MANA Camp' in the Central Government service w.e.f. 1.8.1966. But under Rule 5 of the Temporary Service Rule 1965 her services were terminated due to general reduction in sanctioned strength as per Annexure-I w.e.f. 31.12.1968. On the basis of the representation she was absorbed as a fresh candidate

in the cadre of LDC. As per Annexure-A2 her pay was fixed at Rs.116/- in the scale of Rs.110-180 w.e.f. 13th August 1970, which she was already drawing at the time of termination from 'MANA Camp'. Since her juniors were continuing when she was terminated in 1968 she filed representation requesting to condone the break in service from 1.1.69 to 12.8.70. This was granted as per Annexure-A3. A consequent order, Annexure-A4, was passed by which her pay was fixed under FR 27 at Rs.122 with effect from 13.8.1970.

3. Applicant was surrendered to Central Surplus Staff Cell as per Annexure-A5 w.e.f. 31.10.1976. By Annexure-A6 and A7 she was allotted to Postal Department and appointed as Time Scale Clerk in the pay scale of Rs.260-480. Accordingly she joined on 16.5.77. But her pay was not fixed under FR 22(C) taking into account the higher responsibility of the new post. She filed representation, Annexure-A11 through proper channel and filed OP 4529/80 when recovery was initiated against her stating that there was over payment to her by mistake. This OP was disposed of as per Annexure-A12 judgment dated 18.8.82 directing disposal of her representation and stopping recovery in the mean time. She filed Annexure-A13 to A17 representations after the judgment for fixation of her pay correctly. In the mean time Annexure-A18 letter of DG P&T dated 2.8.88 was issued giving the following clarifications:-

..... Subsequently their pay scale in the Rehabilitation Department got revised retrospectively which necessitated their placement in the pay scale of Rs.425-640/-. It was decided in consultation with DOP&Trg that the surplus officials may be appointed in the pre-revised grade of Rs.425-640/- if vacancy in the grade is available on the date of their re-deployment. If vacancy in the appropriate grade was not available the staff was to be appointed in the par scale of Rs.425-640/- (pre-revised) on personal basis while working as PAs/SAs."

4. Applicant received Annexure-A22 dated 18.12.90 fixing her pay. This order was passed without applying FR 22(c) or advertizing to Annexure-A18. Her further representations Annexures - A19 & A20 were not considered. According to the applicant since the pay scale of the officers in the parent department was revised the applicant is also entitled to be appointed in the pre-revised grade of Rs.425-640 under Annexure-A18. The direction in the letter is that all ex-MANA Camp' employees who are re-employed in postal department may be appointed in the pre-revised grade of Rs.425-640 if vacancy is available. If vacancy is not available they may be appointed in the scale of Rs.425-640 on personal basis. They are also eligible for promotion under TBOP scheme.

5. The contentions of the applicant are opposed by the respondents. In the reply and additional reply filed by the respondents they contended that though the re-employed ex-MANA Camp employees were given the pay scale of Rs.425-640 (old) the applicant was denied the same benefit, in spite of her representations, because her scale of pay was not revised in the parent office with retrospective effect in the scale of Rs.425-640 (old) till she completes 16 years of regular service in P.A. cadre. In department of Posts where the applicant is now working as P.A. the scale of pay of Rs.425-640 (old) is given to the LSGPAs. For promotion to LSG Grade the applicant has to complete 16 years of regular service as Postal Assistant. The applicant's representation dated 8.10.90 was rejected as per Annexure-R1 dated 24.12.91 with the following observations:-

" Please refer to your representation on the above subject dated 8.10.90. Directorate have since examined the issue raised in your representation. It was decided by the Government that in respect of such ex-Mana Camp employees whose scale of pay on their parent department were revised ~~the~~ in the scale of Rs.425-640 (old) the revised scale may be allowed as personal to them.

In your case, the pay scale in the parent office was not revised in the scale of Rs.425-640 (old) and therefore you are not eligible for the same.

According to TBOP Rules, officials who complete 16 years of continuous service on a particular cadre only are considered for promotion to the next higher grade. It is seen that you were absorbed as Postal Assistant with effect from 16.5.1977 in the scale of Rs.260-480 (old). As such the case for your promotion to the next higher grade can be considered after 16.5.1993 only."

6. In the rejoinder the applicant stated that she is entitled to be placed in the pre-revised scale of Rs.425-640 (old) from the date of re-employment by virtue of revision of pay scale in the Rehabilitation Department retrospectively as per para 1 of Annexure-A18. She was allotted to Postal Department as per Annexure-A6 on 30.4.77 and she joined on 16.5.77 without any break in service as per Annexure-A8. Since the post of Postal Assistant in the pay scale of Rs.260-480 involves duties and responsibilities of higher nature when compared to an LDC in the pay scale of Rs.260-400, pay scale is lower than PA, the applicant is entitled to fixation under FR 22-C. She also produced Annexure-A23 a judgment of this Tribunal in OA 365/91 filed by a similarly situated person.

7. Having heard the arguments of the learned counsel appearing on behalf of the parties and after perusing the documents we feel that this case appears to be covered by Annexure-A23 judgment of the Tribunal. Dealing with identical contentions raised by a similarly situated employee the Tribunal held as follows:-

"5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Since the applicant was re-deployed from the Surplus Cell, he has to be considered to be a fresh employee and accordingly the benefit of FR 22-C is not available to him. The direction of the DG P&T as per his letter dated 2.9.88 at Annexure-A.3 reads as follows:

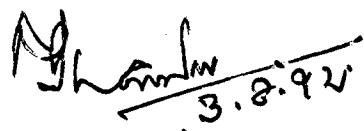
'I am directed to say that many erstwhile Mana Camp employed were re-employed to Postal Department on being rendered surplus in the Rehabilitation Department. Initially many of them were appointed in the PAs/SAs cadre on their re-employment. Subsequently their pay scale in the Rehabilitation Department got revised retrospectively which necessitated their placement in the pay scale of Rs.425-640. It was decided in consultation with the DOP&Trg that the surplus officials may be appointed in the pre-revised grade of Rs.425-640 if vacancy in the grade is available on the date of their re-deployment. If vacancy in the appropriate grade was not available the staff was to be appointed in the pay scale of Rs.425-640/- (pre-revised) on personal basis while working as PAs/SAs.'

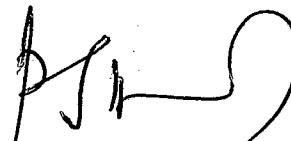
Since the applicant was absorbed as a Postal Assistant with effect from May, 1977 from the Surplus Cell he is entitled to get his pay fixed as Postal Assistant in the pre-revised grade of Rs.425-640. If a vacancy was not available, he can be given the pay scale as personal to him.

6. As regards promotion under the Time Bound One Promotion scheme there is no reason why the applicant should not be xxxxxx given one promotion at least from 9.5.93 when he completes 16 years of service in the Postal Department. Since by coming over from the Surplus Cell there was a virtual break in the service in the parent department, the applicant cannot count his service in the Rehabilitation Department for the purpose of promotion under the Time Bound One Promotion scheme."

8. In the light of the above judgment we are of the view that this application can be partly allowed directing the respondents to appoint the applicant in the pay scale of Rs.425-640 (old) with effect from 16.5.1977 and disburse

arrears and consider her claim under TBOP scheme from the date of her eligibility. In the result the application is allowed to the extent indicated above. There will be no order as to costs.

  
3.8.92  
( N. DHARMADAN )  
JUDICIAL MEMBER

  
( P.S. HABEEB MOHAMED )  
ADMINISTRATIVE MEMBER

v/-