

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 504 of 1999

Wednesday, this the 18th day of July, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. K.P. Varughese,
Assistant Postmaster (Accounts),
Ernakulam Head Post Office,
Kochi - 682 011Applicant

[By Advocate Mr. P.C. Sebastian]

Versus

1. The Senior Superintendent of Post Offices,
Ernakulam Division,
Kochi - 682 011

2. The Postmaster General,
Central Region, Kochi - 682 016

3. The Director General of Post,
Department of Post,
Dak Bhavan, N. Delhi.Respondents

[By Advocate Mr. S.K. Balachandran, ACGSC]

The application having been heard on 18-7-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to declare that his promotion from LSG Accountant to APM (Accounts) involves assumption of higher responsibilities and hence he is entitled to have his pay on promotion as APM (Accounts) fixed under FR 22-C (now FR 22(I)(a)(1) and to direct the respondents to fix his pay on promotion as APM (Accounts) under FR 22-C with all consequential benefits.

2. The applicant says that the promotional avenue to an Accountant who chooses accounts line is to Assistant Postmaster (Accounts) in lower selection grade which is a supervisory post with higher duties and responsibilities. On promotion as Assistant Postmaster (Accounts) a time scale Accountant is entitled to get his pay fixed under FR 22-C. His request for fixation of pay has been rejected as per A3. Reasons stated in A3 for the rejection are arbitrary. The nature of duties attached to the post of Assistant Postmaster (Accounts) involves assumption of higher responsibilities.

3. Respondents resist the OA contending that though there is a technical flaw in ordering 'promotion' of a TBOP official to Assistant Postmaster (Accounts) in the same scale of pay, the exercise was intended only to place the official in the functional post of Assistant Postmaster (Accounts). The applicant, while in the cadre of LSG, was appointed as Assistant Postmaster (Accounts) on 13-10-1986. APM (Accounts), LSG APMs in general line and TBOP officials are in the same time scale and posting of a TBOP Accountant as APM (Accounts) cannot be considered as a promotion involving assumption of higher responsibilities.

4. The applicant is claiming the benefit of fixation on the ground that on his appointment as APM (Accounts) he has to shoulder responsibilities of greater importance. The learned counsel appearing for the applicant also submitted that the applicant is governed by the provisions of FR prior to its amendment as the applicant's appointment as APM (Accounts) was prior to the amendment of FR. FR 22-C says that notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a

substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued. FR 30(2) says that for the purpose of this rule, the officiating appointment shall not be deemed to involve the assumption of duties or responsibilities of greater importance if the post to which it is made is on the same scale of pay as the permanent post, other than a tenure post, on which he holds a lien or would hold a lien had his lien not been suspended, or on a scale of pay identical therewith.

5. When it can be said that a post ^{is} carrying duties and responsibilities of greater importance is to be ascertained with reference to what is contained in FR 30(2). The learned counsel for the applicant submitted that the applicant was in the same scale of pay of APM (Accounts) even prior to his appointment to the post of APM (Accounts).

6. The learned counsel for the applicant further submitted that FR 30(2) will apply only when the appointment is officiating. R2 is the order as per which the applicant got appointment as APM (Accounts). In R2, it is clearly stated that the applicant will be on probation for a period of two years. That being so, he was given only an officiating appointment as APM (Accounts). That being the position, FR 30(2) is attracted and in the light of FR 30(2) the post of APM (Accounts) does not carry duties and responsibilities of greater importance than the post applicant was holding immediately prior to his appointment as APM (Accounts).

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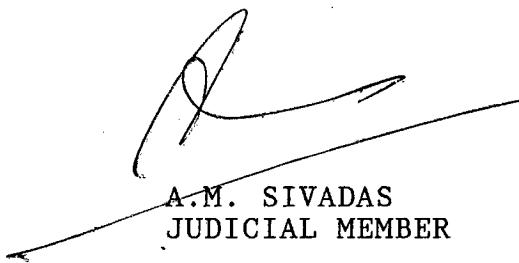
7. An identical issue was considered by the Hyderabad Bench of this Tribunal in OA No. 951/1998. The Hyderabad Bench, relying on the ruling in Union of India and Others vs. Ashoke Kumar Banerjee [(1988) 5 SCC 242], dismissed that OA. In the light of the order in the said OA, this Original Application is also to be dismissed.

8. Accordingly, the Original Application is dismissed. No costs.

Wednesday, this the 18th day of July, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A3 True copy of Letter No. A&P/16-189/97 dated 23-4-1998 issued by the Second respondent to the 1st respondent.
2. R2 True copy of the order No. ST/5/3/84-85 dated 18-7-86 issued on behalf of Post Master General, Kerala Circle.