

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 584/97

Thursday, this the 2nd day of December, 1999.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
1. P.M. Hareeswaran, Inspector of Post Offices,
(Complaints & Grievances),
Office of the Superintendent of Post Offices,
Idukki Division,
Thodupuzha.

2. P.J. James, Sub Divisional Inspector of Post
Munnar Sub Division,
Munnar.

...Applicants

By Advocate Mr P.C. Sebastian.

Vs.

1. The Superintendent of Post Offices,
Idukki Division,
Thodupuzha.

2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

3. The Director General,
Depaprtment of Posts, Dak Bhavan,
New Delhi.

4. The Union of India represented by its Secretary,
Ministry of Communications,
Department of Posts,
New Delhi.

...Respondents

By Advocate Mr P.R.Ramachandra Menon, ACGSC.

The application having been heard on 2.12.99,
the Tribunal on the same day delivered the
following:-

O R D E R

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

Applicants seek to quash A5, to declare that
they are entitled to the benefit of fixation of pay on
promotion from Lower Selection Grade to the cadre of
Inspectors of Post Offices, in accordance with FR 22-C
[now FR 22(1)(a)(i)], to issue appropriate direction
to the respondents to grant the benefit of fixation under

FR 22-C [now FR 22(1)(a)(i)] to them with effect from the date of their promotion, and to refund the amount recovered being the difference of deduction of pay effected from the month of May, 1995 in respect of the 1st applicant and from April, 1995 in respect of the 2nd applicant.

2. Applicants are working with cadre of Inspector of Post Offices in the scale of pay of Rs.1400-2300. The 1st applicant commenced his service as Postal Assistant with effect from 10.1.78. On completion of 16 years of service, he was promoted to the higher grade of Lower Selection Grade Postal Assistant in the scale of pay of Rs.1400-2300 with effect from 19.1.94 under the Time Bound One Promotion (TBOP for short). The 2nd applicant also commenced his service as Postal Assistant and it was with effect from 2.9.78. He was placed in the next higher grade of Lower Selection Grade (TBOP) with effect from 16.9.94. Inspectors are selected from the candidates belonging to the cadre of Postal Assistants including Lower Selection Grade Postal Assistants on the basis of a Departmental Competitive Examination. Both the applicants were admitted in the Departmental Competitive Examination for promotion to the cadre of Inspectors during the year 1994 and they came out successful and were promoted as Inspector of Post Offices. On promotion to the cadre of Inspector of Post Offices, the 1st applicant was drawing basic pay of Rs.1600/- in the L.S.G. Cadre. On promotion, his pay was fixed at Rs.1720/- with effect from 1.5.95 based on the option he exercised as per the provisions of FR 22-C. The 2nd applicant's pay was fixed on promotion at Rs.1560/- with effect from the Month of

April, 1995. The 3rd respondent has issued a clarificatory order dated 31.5.95. On the basis of A5, the 1st respondent directed the Pay Drawing Officer of the applicants to revise the pay fixation already given to them under FR 22-C and recover the excess amount. No notice was given to them nor any opportunity of being heard. Applicants submitted representations which are A6 and A7. A8 and A9 are the orders issued in response to A6 and A7.

3. Respondents resist the O.A. contending that the applicants are not entitled to get their pay fixed on promotion to the cadre of Inspector of Post Offices under FR 22(1)(a)(i) as the promotion shall not be deemed to involve assumption of duties and responsibilities of greater importance. As per FR 22(III) and Government of India Order No.6, second fixation of pay is restricted as the benefit under FR 22(1)(a)(i) was already allowed as a special dispensation on promotion under TBOP Scheme. A5 order is not clarificatory nature. It reiterates the existing orders of FR 22(III) and Government of India Orders No.6. In the light of FR 22(III), applicants are not entitled to fixation of pay under FR 22(1)(a)(i).

4. Learned counsel appearing for the applicants after arguing for some time, submitted that the relief to quash A5 is not pressed.

5. Learned counsel appearing for the applicants submitted that refixation of pay reducing from the earlier pay drawn by the applicants was done behind their back and therefore, it is in violation of the principles of natural justice. In the light of A6 and A7



representations submitted by the applicants they cannot be heard to say any order has been passed behind their back without affording an opportunity to represent their case. In A6 it is clearly stated by the 1st applicant that it is understood by him that in the light of A5, the pay fixation given to him at the time of his promotion to the Inspector of Post Offices cadre from the LSG is proposed to be disallowed and his pay reduced to the stage of Rs.1640/- with effect from 1.5.95. So, the 1st applicant was well in the know of that his pay will be refixed. As far as the 2nd applicant is concerned, from A7 it is seen that he was not given a fixation on promotion to the cadre of Inspector of Post Offices under FR 22(1)(a)(i). So, there is no merit in saying that pay has been reduced after refixation behind their back and is violation of the principles of natural justice.

6. Applicants are claiming for fixation of their pay on promotion from the Lower Selection Grade to the grade of Inspector of Post Offices as per FR 22-C [now FR 22 (1)(a)(i)]. Applicants pay was refixed at two stages and that was found to be erroneous by the department as two fixation cannot be granted in the light of the clear provision contained in FR 22(III). FR 22(III) says that the appointment shall not be deemed to involve assumption of duties and responsibilities of greater importance if the post to which it is made is on the same scale of pay as the post, other than a tenure post, which the Government servant holds on a regular basis at the time of his promotion or appointment or on a scale of pay identical therewith. Absolutely nothing is brought to our notice by the learned counsel



for applicant that FR 22(III) has no application in this case. From the facts it is seen that FR 22(III) squarely applies. Learned counsel appearing for the applicants submitted that Lower Selection Grade Postal Assistants and Inspectors of Post Offices are on the same scale of pay. That being so, the applicant cannot claim for double fixation in the light of FR 22(III).

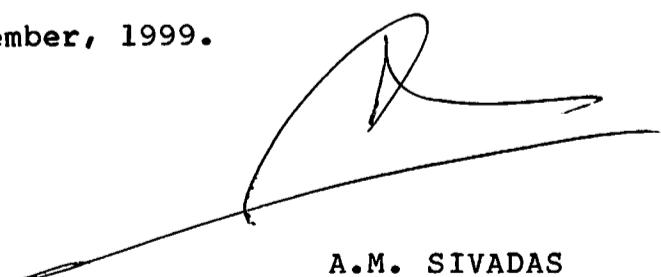
7. There is also a prayer made by the applicants to direct the respondents to refund the amount recovered being the difference of deduction of pay. A8 is the order as per which recovery is ordered from the salary of the 1st applicant. The recovery is made on the basis of the extra amount paid due to wrong fixation to the 1st applicant. As per A7, it is the admitted case of the 2nd applicant that there was no fixation of pay on promotion as Inspector of Post Offices under FR 22(1)(a)(i). That being so, the question of recovery does not arise as far as the 2nd applicant is concerned. A8 is not under challenge. That being so, there cannot be an order to refund the amount recovered from the salary of the 1st applicant.

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

Dated the 2nd of December, 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES REFERRED TO IN THE ORDER

A5, True copy of clarificatory order No.2-20/95 PAP dated 31.5.95 issued by the 3rd respondent.

A6, True photo copy of representation submitted by the 1st applicant to the 1st respondent dated 24.1.96.

A7, True photo copy of representation submitted by the 2nd applicant to the 1st respondent dated 12.11.96.

A8, True photo copy of letter No.B/280 dated 16.2.96 issued by the 1st respondent to the 1st applicant.

A9, True photo copy of reply by the 1st respondent as per his letter No.B/337/II dated 20.11.96 addressed to the Sub Divisional Inspector, Munnar.