

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.617/94

Thursday, this the 23rd day of February, 1995.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

K Sasisekharan Nair,
Assistant Superintendent of Post Offices,
O/o the Superintendent of Post Offices,
Thiruvananthapuram South Division,
Thiruvananthapuram-695 014. - Applicant

By Advocate Mr PC Sebastian

Vs

1. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.
2. The Deputy Director,
Postal Accounts,
Thiruvananthapuram.
3. Union of India represented by
Secretary,
Ministry of Communications,
New Delhi.
4. V Parameswaran Nair,
Assistant Superintendent of Post Offices,
O/o the Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram-33. - Respondents

By Advocate Mr C Kochunni Nair(for R.1 to 3)

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, who is working as Assistant Superintendent of Post Offices is aggrieved by the orders A5 in which the respondents have refused to step up his pay to that of the 4th respondent who is junior to him. According to applicant, he is admittedly senior to the 4th respondent and his pay was fixed on 1.1.1986 in the revised

scale taking into account the pay drawn by him in the post of Inspector of Post Offices. Subsequently he was promoted on 10.3.1986 as Assistant Superintendent of Post Offices and his pay was fixed under FR 22 on getting regular promotion. Fourth respondent on the other hand, was promoted as A.S.P. on an officiating basis on 29.11.1985, opted to come to the revised scale with effect from 1.11.1986 after drawing one increment in the pre-revised scale and his pay was fixed corresponding to the pre-revised scale drawn by him on 1.11.1986. According to applicant, this has resulted in his drawing lesser pay than his junior and he prays that he may have his pay stepped up on par with the 4th respondent with all consequential benefits.

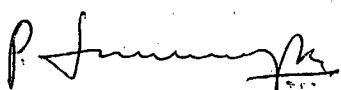
2. Respondents state that the applicant opted for the new scales of pay from 1.1.1986 on which date he was in the scale of Inspector of Post Offices. His pay was therefore fixed on 1.1.1986 in the revised scale and it was re-fixed in the scale of A.S.P. on 10.3.1986 on promotion. Respondents also state that due credit was given for his earlier officiating service and his date of next increment was advanced to 1.12.1986. According to respondents, when the post of A.S.P. was available for being filled up on an officiating basis, the willingness of the applicant was also ascertained but applicant was not willing for the officiating promotion. Since the anomaly has arisen because of this, applicant is not eligible for the stepping up of pay since the anomaly has not arisen as a result of the application of the provisions of FR 22-C or any other rules or order regulating pay fixation on such promotion in the revised scale. Learned counsel for applicant disputed the fact that his willingness was ascertained. We therefore called for the relevant file and we find that an endorsement has been made on the letter dated 21.11.1985, conveying the willingness of the 4th respondent, stating that applicant was not willing. This endorsement is dated 22.11.1985

and the promotion to the 4th respondent has been given effect from 29.11.1985. Had the applicant really been overlooked for the officiating promotion even though he is senior, he could have immediately protested and asked for the officiating promotion in place of 4th respondent. He did not make any such protest. To verify the matter further, we also called for an affidavit from the officer who made the endorsement in the file. This officer has since retired and he has filed an affidavit stating that he had discussions with the then Office Supervisor of Trivandrum South Division and ascertained that the applicant was not willing to get officiating promotion as A.S.P.(Printing). He has also stated in the affidavit that he has perused the endorsement which he had made in the file. Under these circumstances, we conclude that the applicant was not willing to accept the officiating promotion which was then given to the 4th respondent.

4. In this view the anomaly has arisen because the applicant was not willing to accept the officiating promotion whereas the 4th respondent who was junior to him accepted the officiating promotion. Accordingly, the applicant is not entitled to stepping up of pay. The application is without merit.

5. Application is accordingly dismissed. No costs.

Dated, the 23rd of February, 1995.



P SURYAPRAKASAM
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

trs/232

List of annexure

Annexure A.5: True copy of Lr.No.A&P/90-505/2/92
dt. 24.1.94 (Endt. No.B/1217 dt. 28.1.94)
issued on behalf of 1st respondent.