

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 100 of 2005

Tuesday, this the 3rd day of April, 2007

C O R A M:

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

K.S. Saradakrishna Ranjan,
S/o. late K. Krishnan,
Senior Accounts Officer,
Office of the Director of Postal Accounts (Postal),
GPO Complex, Thiruvananthapuram - 695 001,
Residing at TC No. 6/787-1, Eswary Amman Kovil Road,
Vara No. 688, Vattiyurkavu P.O.,
Thiruvananthapuram : 695 013. ... Applicant.

(By Advocate Mr. O.V. Radhakrishnan, Sr. with Mr. Antony Mukkath)

v e r s u s

1. Director General (Posts),
(Postal Accounts Wing), (PA Admn),
Dak Bhavan, Sansad Marg,
New Delhi : 110 001
2. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram.
3. Secretary,
Ministry of Finance & Company Affairs,
Department of Expenditure (E-III-B Branch),
Lok Nayak Bhavan, Khan Market,
New Delhi - 110 001
4. Union of India, represented by Its
Secretary, Ministry of Communications and IT,
Department of Posts, PA Wing,
Dak Bhavan, New Delhi - 110 001
5. Secretary to Government of India,
Ministry of Personnel Public Grievances & Pensions,
Deptt. Of Personnel & Training, New Delhi. ... Respondents.

(By Advocate Mr. George Joseph, ACGSC)

The original Application having been heard on 28.03.07, this Tribunal on 3.4.07. delivered the following :

ORDER
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

This OA raises an interesting question of Law. Pre-revised scale of Pay of Rs 2000-3200 was replaced first by Rs 6,500 - 200 - 10,500/- and after some time this was substituted by a higher pay scale of Rs 7,450 - 11,500/-. The applicant's pay in the pre-revised scale was Rs 2,825/-, which, together with DA, I.R. Etc., amounted to Rs 8,519/- . This amount with the initial replacement scale of Rs 6,500 - 10500/- was revised at Rs 8,700/- giving an overall monetary benefit of Rs 1,131/-. However, when the pay scale of Rs 6,500 - 10,500/- was substituted by a higher pay scale of Rs 7,450 - 11,500/- in the said scale, the stage at which the pay of the applicant could be fixed was Rs 8,575/- in which event, the overall monetary benefit works out to only Rs 1,186/-! This anomaly was pointed out by the applicant with the request that his pay should be stepped up to equate itself with the pay of Rs 8,700/- with subsequent annual increments, but the respondents have rejected the same on the ground that there is no rule to obliterate this anomaly. Hence, this O.A.

2. Facts capsule:

(a) The applicant joined the respondents' organization in 1970 as Upper Division Clerk and steadily was going up in the ladder of promotion and as of 01-01-1996, he was functioning as Deputy Accounts Officer in the scale of Rs 2,000 - 3,200/- which post was re-designated as



Asst. Accounts Officer. In the wake of the recommendations of the Vth Central Pay Commission, the Government had revised the pay scales of all the posts and the revised scale for the earlier pay scale of Rs 2000 - 3200/- happened to be Rs 6,500 - 10,500/-, vide notification dated 30-09-1997, circulated under OM dated 09.10.1997 (Annexure A-2) and the applicant had opted for the revised pay w.e.f. 01-01-1997 consequent to which his pay was fixed in the afore-said scale of Rs 6,500 - 10,500/. As, at that time the pay of the applicant was Rs 2,825/- the same together with other elements of Interim Relief, Dearness Pay etc., Incremented to Rs 8,519/- and the pay was fixed in the next stage of Rs 8,700/- in the said scale of Rs 6500 - 200 - 10500/. The applicant drew an increment as on 01-01-1998, raising his pay to Rs 8,900/- and after a year, with another increment of Rs 200/- the pay became Rs 9,100/- as on 01.01.1999. In April, 1999, the applicant was promoted as Accounts Officer in the scale of pay of Rs 7,500 - 12,000/- vide Annexure A-3 and his pay, on his exercising option to have the higher pay scale w.e.f. 01-01-2000, vide Annexure A-4, became Rs 9,750/- in the said scale, and with the normal annual increments attached to that scale, the pay was increased to Rs 10,000/- as of 01-01-2001 and Rs 10250/- as on 01-01-2002. Again, when the applicant was promoted as Sr. Accounts Officer in the scale of pay of Rs 8,000 - 13,500/- the pay of the applicant as of February 2,003 became Rs 10,500/. In the said scale. So far so good! However, the Ministry of Finance and Company Affairs, vide Annexure A-9 order dated 28-02-2003 revised the pay scale issued an order to the effect that the pre-revised pay scale of Rs 2,000 - 3,200/- attached to the Asst. Audit Officer/Asst/ Accounts Officer, was replaced by Rs 7,450 - 11,500/- as against Rs 6,500 - 10,000/- and the said pay scale became effective from 01-01-1996 or from the date as opted by the individual concerned at the time of introduction of the revised pay Rules. As the date of option exercised by the applicant was



01.01.1997, the pay of the applicant was to undergo a corresponding revision. Here exactly arose the anomaly, resulting, Instead of an increase in the pay package, a steep drop in the pay of the applicant! As per the Table of concordance, pay of Rs 2825/- in the pre revised scale of Rs 2000 – 3200/- gets revised to Rs 8,575/- in the scale of Rs 7450 – 11500, whereas in the pay scale of Rs 6500 – 10500, it was Rs 8,700/-. When the applicant was promoted as Accounts Officer in April, 1999, his pay scale was Rs 7,500 – 12,000/- and his pay became as of 01-01-2000 Rs 9,500/- as against Rs 9,750/- as originally drawn! This difference of Rs 250/- in the pay was maintained upto his promotion as Sr. Accounts Officer in the scale of Rs 8,000 – 13,500/- whereafter, the gap widened to Rs 275/-. The applicant superannuated on 31-03-2005 and as such, the reduction in his pay resulted in a perpetual reduction in the pension payable to him.

- (b) The applicant penned a comprehensive and lucid representation, manifesting the extent of reduction in his pay on account of the revision of pay scale attached to the post of Asst. Audit Officer/Asst. Accounts Officer and requested for retention of pay scale Rs 6,500 – 10,500/- as personal to him instead of the upgraded scales, at least to protect his pay from drop of financial benefit. Annexure A-3 representation dated 25-08-2003 refers.

- (c) Appreciating the adverse Impact on the existing pay as a result of the introduction of upgraded scale, the Director, Office of the Director of Accounts (Postal), Kerala recommended to the Asst. Director General, for acceding to the request of the applicant, clearly confirming that "**this is the only case in this office**" having such an adverse Impact. Annexure A14 letter dated 23-09-2003 refers. This was followed by expeditor and Demi-Official Communication, vide

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Annexures A-15 and A-16 – A-17.

(d) The applicant renewed his request again by letter dated 12-04-2004 (Annexure A-18) and the Director had, on his part, again took up the matter with the Headquarters, vide Annexure A-19, wherein, the favourable views of the Chief Postmaster General, Kerala and the recommendations of the Circle IFA were also indicated. One more internal correspondence between the office of Director of Audit and the Headquarters took place, vide letter dated 03-12-2004 but of no avail. Hence, this OA from the applicant seeking the following relief (s):

(I) To declare that the first respondent is legally obliged to fix the pay of the applicant in the upgraded scale in the post of Assistant Accounts Officer on the basis of the pay he was actually drawing immediately before the date of Annexure A-9 and to fix his pay in the post of Assistant Accounts Officer, Accounts Officer and functional grade Senior Accounts Officer without causing drop-in-pay while implementing Annexure A-9 upgradation of existing pay by extending the dispensation approved in the case of Accounts Staff of Railway to the corresponding categories in all the Organised Accounts Cadres consistent with the equality clauses contained in Articles 14 and 16 of the Constitution of India;

(II) To issue appropriate direction or order, directing the first respondent to fix the pay of the applicant in the upgraded scale in the post of Assistant Accounts Officer on the basis of the pay he was actually drawing immediately before the date of Annexure A/9 O.M. dated 28.02.2003 and to fix his pay in the post of Assistant



Accounts Officer, Accounts Officer and functional grade Senior Accounts Officer without causing drop-in-pay while implementing Annexure A/9 O.M. dated 28.02.2003 and to grant him the consequential financial benefits and to make available the arrears of pay and allowances within a time-frame that may be fixed by this Tribunal.

(iii) To Issue appropriate direction or order directing the respondents to determine his pension and other retiral benefits without regard to the drop-in-pay effected while implementing Annexure A/9 dated 28.02.2003.

3. Respondents have filed their reply. While admitting the fact that the revised pay scale had adverse effect so far as the applicant was concerned, the respondents had stated that since the nodal ministry in this regard is the Ministry of Personnel (Department of Personnel and Training), it is for them to consider the case. This had forced the applicant to implead the Ministry of Personnel as a respondent and on permission having been granted, vide order dated 16-11-2005 in M.A. No. 1036/05, necessary amendment was carried out and notice was also sent to the Ministry of Personnel (DOPT) in December, 2005. Additional reply was filed by the respondent No. 1, wherein also the existence of the anomaly was accepted. However, as according to the respondents there was no rule to rectify the anomaly, they have expressed their inability.

4. Counsel for the applicant had submitted that once the anomaly is accepted, the same should have been rectified. Referring to various decisions of



the Apex Court and that of Hon'ble High Court of Kerala, relating to the stepping up of pay at par with junior, the counsel submitted that the same principle should apply in this case as well and the pay of the applicant should be so revised as to remove the anomaly. The following decisions (with particular reference to the paragraph extracted thereunder) had been cited by the applicant's counsel:-

(a) *State of A.P. v. G. Sreenivasa Rao, (1989) 2 SCC 290*

17. In *State of U.P. v. J.P. Chaurasia* the question for consideration was as to whether it is permissible to have two pay scales in the same cadre for persons having same duties and having same responsibilities. Jagannatha Shetty, J. speaking for this Court observed :

*'It is against this background that the principle of equal pay for equal work has to be construed in the first place. Second, this principle has no mechanical application in every case of similar work. It has to be read into Article 14 of the Constitution. Article 14 permits reasonable classification founded on different bases. It is now well established that the classification can be based on some qualities or characteristics of persons grouped together and not in others who are left out. Those qualities or characteristics must, of course, have a reasonable relation to the object sought to be achieved. In service matters, merit or experience could be the proper basis for classification to promote efficiency in administration. He or she learns also by experience as much as by other means. It cannot be denied that the quality of work performed by persons of longer experience is superior than the work of newcomers. Even in *Randhir Singh* case , this principle has been recognised. O. Chinnappa Reddy, J. observed that the classification of officers into two grades with different scales of pay based either on academic qualification or experience or length of service is sustainable. Apart from that, higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is very common in career service. There is selection grade for District Judges. There is senior time scale in Indian Administrative Service. There is supertime scale in other like services. The entitlement*



to these higher pay scales depends upon seniority-cum-merit or merit-cum-seniority. The differentiation so made in the same cadre will not amount to discrimination. The classification based on experience is a reasonable classification. It has a rational nexus with the object thereof. To hold otherwise, it would be detrimental to the interest of the service itself.'

(b) *S.M. Ilyas (Dr) v. Indian Council of Agricultural Research, (1993) 1 SCC 182*

14. We have considered the arguments advanced by learned counsel for both the parties and have thoroughly perused the record. It is no doubt correct that while introducing a new scheme of pay-scales and fixing new grades of posts, some of the incumbents may have to be put to less advantageous position than others, but at the same time the granting of new pay-scales cannot be allowed to act arbitrarily and cannot create a situation in which the juniors may become senior or vice versa. Admittedly, the Scientists working in the ICAR had made a grievance for the revision of their pay-scales and the Government being satisfied with their grievances had appointed various expert Committees such as, M.V. Rao Committee, N.G.P. Rao Committee, Menon Committee and G.V.R. Rao Committee for improvement of service conditions of the Scientists working in the ICAR. Government had notified a set of pay-scales for the Universities in 1988 known as \square UGC Scales \square . M.V. Rao Committee which was set up by the Government to go into the pay-scales of ARS Scientists had recommended the application of the UGC Scales to the ARS Scientists. So far as the recommendations of the aforementioned expert Committees are concerned, learned counsel for the appellants pointed out that none of the recommendations made by such Committees laid down any criteria of 8 years or 16 years of service for giving higher pay-scales in the case of incumbents holding the same S-2 or S-3 grade in the ICAR. The respondents in their counter-affidavit have admitted that S-1, S-2 and S-3 are equivalent to that of Lecturer, Reader and Professor respectively. Dr M.V. Rao Committee after considering the fact that the ICAR has the role of UGC in agricultural education recommended that the ICAR being an apex organisation in the country for agricultural education, research and extension should have the pay-scales at least at par with the State Agricultural Universities. Dr M.V. Rao Committee's recommendations were accepted by the Central Government and a policy decision was taken on October 13, 1988 to the effect that UGC package may be extended to ICAR Scientists engaged in teaching, research and extension. It



may be further noted that prior to the impugned notification dated March 9, 1989, there were four grades of Scientists namely, Scientist S, S-1, S-2 and S-3 apart from other higher grades with which we are not presently concerned. So far as the lowest grade of Scientist is concerned which has been named as Experimental Scientist in the impugned notification it is a dying cadre. Now, so far as Scientist S-1 is concerned, he has been given the revised pay-scale of Rs 2200-4000 and there is no controversy about it. The controversy is about Scientists S-2 and S-3. All Scientists S-2 were in the same pay-scale of Rs 1100-1600 prior to the introduction of the revised pay-scales by the impugned notification dated March 9, 1989. By the impugned notification, post of Scientist S-2 has been bifurcated in two grades as Scientist (Senior Scale) in the pay scale of Rs 3000-5000 and Scientist (Selection Grade) in the pay-scale of Rs 3700-5700. Similarly, the post of Scientist S-3 which had a common pay-scale of Rs 1500-2000 has now been bifurcated as Scientist (Selection Grade) in the pay-scale of Rs 3700-5700 and Principal Scientist in the pay-scale of Rs 4500-7300. The basis for giving higher pay-scales has been taken as period of total service in ARS as 8 years in the case of Scientist S-2 and 16 years in the case of Scientist S-3. It would have been correct in case the recruitment to such posts of S-2 and S-3 had been made purely on the basis of seniority and length of service in ARS. But the admitted position is that such posts of Scientists S-2 and S-3 were also filled by direct recruitment from public as well as by merit-cum-seniority from amongst the members of the Agricultural Research Service. Thus, the anomalous situation created is amply illustrated by the examples of Dr G.C. Sharma and Dr Sheo Raj in the case of S-3 and the case of Ms Pratibha Shukla and Shri B.S. Modi in the case of Scientist S-2. Dr Sheo Raj came to be appointed as a Scientist S-3 on December 6, 1979 while Dr G.C. Sharma came to be appointed as Scientist S-3 as late as on January 1, 1985. Admittedly, on December 31, 1985 both were in the scale of Rs 1500-2000. Now, on the basis of the impugned notification Dr G.C. Sharma gets the pay-scale of Rs 4500-7300 as Principal Scientist while Dr Sheo Raj is fixed in the pay-scale of Rs 3700-5700 as Scientist (Selection Grade). Similar is the case of Shri B.S. Modi and Ms Pratibha Shukla in S-2.

(c) *Union of India v. P. Jagdish, (1997) 3 SCC 176*

7. So far as the second question is concerned it depends upon the applicability of the principle of stepping up. Admittedly, the respondents had been promoted earlier to the category of Head Clerks and some of their juniors who were continuing as Senior Clerks against the identified posts carrying special pay of Rs 35



per month on being promoted to the post of Head Clerks later than the respondents got their pay fixed at a higher level than the respondents. Under the provisions of Fundamental Rules to remove the anomaly of a government servant promoted or appointed to a higher post earlier drawing a lower rate of pay in that post than another government servant junior to him in the lower grade and promoted or appointed subsequently to the higher post, the principle of stepping up of the pay is applied. In such cases the pay of the senior officer in the higher post is required to be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up is required to be done with effect from the date of promotion or appointment of the junior officer. On refixation of the pay of the senior officer by applying the principle of stepping up, the next increment of the said officer would be drawn on completion of the requisite qualifying service with effect from the date of the refixation of pay. This principle becomes applicable when the junior officer and the senior officer belong to the same category and the post from which they have been promoted and in the promoted cadre the junior officer on being promoted later than the senior officer gets a higher pay. This being the principle of stepping up contained in the Fundamental Rules and admittedly the respondents being senior to several other Senior Clerks and the respondents having been promoted earlier than many of their juniors who were promoted later to the post of Head Clerks, the principle of stepping up should be made applicable to the respondents with effect from the date their juniors in the erstwhile cadre of Senior Clerks get promoted to the cadre of Head Clerks and their pay was fixed at a higher slab than that of the respondents. The stepping up should be done in such a way that the anomaly of juniors getting higher salary than the seniors in the promoted category of Head Clerk would be removed and the pay of the seniors like the respondents would be stepped up to a figure equal to the pay as fixed for their junior officer in the higher post of Head Clerk. In fact the Tribunal by the impugned order has directed to apply the principle of stepping up and we see no infirmity with the same direction subject to the aforesaid clarifications. This principle of stepping up which we have upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the respondents had not worked in the post to which 35% [sic Rs 35 as] special pay was attached in the lower cadre. But by reason of promotion the promotee-juniors who worked on the said posts, in fact, performed the hard duties and earned special pay. Directions to pay arrears would be deleterious to inculcation of efficiency in service. All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that

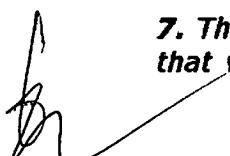


would be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only prospectively from the date of the promotion and the fixation of the scale, stepping up of the scale of pay would be prospective to calculate future increments on the scale of pay in promotional post only prospectively. The appeal is dismissed but in the circumstances there would not be any order as to costs.

(d) *Calcutta Municipal Corpn. v. Sufit Baran Mukherjee, (1997) 11 SCC 463*

6. A reading thereof would clearly indicate that the principle of stepping up of the pay would arise only when a junior employee, on his promotion, is drawing higher pay than his seniors; in that case, they would be entitled to the stepping up of the pay so as to be on a par with him on the principle that the persons who are similarly situated and are drawing the same scale of pay and are doing the same duty and being senior to the persons drawing higher pay, are entitled to have their pay stepped up but that principle is inapplicable to the situation, as in the present case, where a junior person on transfer to a different place is being paid extra payment by way of special pay or overtime pay, whatsoever the nomenclature be and would be treated to be a special pay since he has to discharge the duty outside his normal duty or due to special circumstances. Such a fortuitous circumstance would not be a ground for other seniors to claim parity of pay by stepping up of their scale of pay. If the contention is given acceptance, the extra salary would become payable to persons who do not take pains and do the normal work while staying in a convenient post/place with indolence whereas the person who undertakes special responsibility or puts up hard work would be put on a par; and stepping up of pay would be a premium on laziness and indolence. It would be deleterious to augmentation of efficiency in service or dedication to duty. Under those circumstances, we think that the statutory principle of stepping up of the pay so as to be on a par with the junior would be not on rational principle. When all of them discharge the same duties and are under the same responsibility and not in different circumstances and if the juniors draw higher pay on promotion, the seniors who do not get the opportunity would be entitled to parity of pay with their juniors.

7. The learned counsel for the respondents, however, contends that withdrawal is without notice and, therefore, it is violative



of the principle of natural justice. We find no force in the abstract contention. It is now a well-settled legal position and needs no reiteration. However, on the facts of this case, we do not find any reason to set aside that order for the reasons that they have not withdrawn any amount paid to them pursuant to the legal order passed in favour of the respondents. All that they have done is that they have revised the pay scales only after realising the mistake.

(e) Kamala Devi vs K.S.F.E. Ltd., (2002) 1 KLT 159:

"6. Article 14 guarantees equality before law and equal protection of laws, but the same does not prohibit classification. A classification will not be hit by Article 14, if the same satisfies the twin tests :-

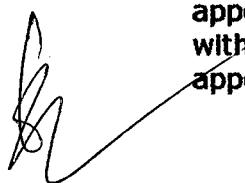
- (1) there is an intelligible differentia between those included in one group and those excluded from it;
- (2) It has a rational nexus with the object of law.

The Supreme Court has held that if the classification suffers from the vice of under Inclusiveness, the same will be hit by Art. 14. The Supreme Court has explained the said principle plithily in *In Re Special Courts Bill, 1978*, in the following words : (AIR 1979 (1) SC 478) :

xxxx xxxx xxxx xxxx

7. In the light of the above principles, it can be seen that the applicant as well as Mr. Kasim Pillai was suffering the disability of their juniors drawing higher pay. But the appellant was not included in the group of beneficiaries of one special increment. Therefore, the classification attempted by the first respondent in the matter of rectification of anomaly suffered from the vice of under Inclusiveness. Therefore, the same is liable to be declared as unconstitutional.

8. Even without going into the nuances of law relating to classification, it is apparent that the present case is a clear case of plain discrimination, in as much as the appellant's junior is drawing higher salary than her without any reasonable reason whatsoever. So, the appellant is entitled to have her salary stepped up with



effect from the date her junior started to draw higher pay than her. This view taken by us finds support from two decisions of the Supreme Court in *Union of India & Ors. vs. P. Jagdish & Ors.* ((1997) 3 SCCC 176) and in *Calcutta Municipal Corpn. & Anr. vs. Sujit Baran Mukherjee & Ors.* ((1997) 11 SCC 463). In the first decision, the Supreme Court has held as follows:

xxxxxx xxxxxxxx xxxxxx xxxxx "

5. Arguments were heard and documents perused. At the outset, we may clarify one thing that the citations relied upon by the senior counsel are all relating to "junior drawing more pay" and consequently, "stepping up of pay". However, the case in hand has no relationship with such a principle. Though the counsel submitted that even though there is no junior for comparison, the principle has to be applied we are disinclined to accept the contention. The case having no bearing with the principle of stepping up of pay, the same has to be viewed only on the ground of anomaly and remedied, within the available rules and regulations.

6. A look at the table of concordance with a comparison of pay in the pre-revised and revised pay scales would manifest the anomaly in certain situations. The same is as under:-

Sl No.	Pay in Pre Revised scale (2000-3200)	Pay in revised pay scale(6500-10500)	Pay in revised pay scale (7450-11500)	Remarks
1	Rs 2,675/-	Rs 8,100/-	Rs 8,125/-	
2	Rs 2,750/-	Rs 8,300/-	Rs 8,350/-	
3	Rs 2,825/-	Rs 8,700/-	Rs 8,575/-	Decline
4	Rs.2,900/-	Rs 8,900/-	Rs 8,800/-	Decline



Sl No.	Pay in Pre Revised scale (2000-3200)	Pay in revised pay scale(6500-10500)	Pay in revised pay scale (7450-11500)	Remarks
5	Rs 2,975/-	Rs 9,100/-	Rs 9,025/-	Decline
6	Rs 3,050/-	Rs 9,300/-	Rs 9,250/-	Decline
7	Rs 3,125/-	Rs 9,500/-	Rs 9,475/-	Decline
8	Rs 3,200/-	Rs 9,700/-	Rs 9,700/-	Equal

7. The above table would show that when earlier the pay scale under the Revised Pay Rules was Rs 6,500 – 10,500/- those who were drawing the pay of Rs 2,825 to 3,125/- would be receiving higher pay in the said scale, while on upward revision from Rs 6500 – 10500 to Rs 7450 – 11500/- for the same pre revised pay, there has been a depletion for such pay. This is certainly an anomaly. This would mean that persons in the lower pay scale (6500-10500) would be drawing more pay than the persons in the higher pay scale (7450 – 11500). This anomaly had not been foreseen at the time of implementation. This anomaly, therefore, is required to be rectified. More so, as the case of the applicant is stated to be a lone case in that department and as such, there shall be no huge financial implications. But, the Pay Rules have no scope for rectification of such anomaly. This anomaly gets further aggravated when the applicant was promoted as Accounts officer in the higher scale of Rs 7,500 – 12500 w.e.f. 01-01-2000 and later on as Sr. Accounts Officer in the next higher scale of Rs 8000 – 13500/-. The request of the applicant is that he be permitted to retain the scale of pay of Rs 6,500 – 10,500 so that the amount drawn by him does not get reduced due to the revision in pay scale from 6500 – 10500 to Rs 7450 – 11500/-. This may not be possible since that would



amount to two different pay scales attached to the same post. The peculiarity that has arisen in this case is unique and as stated by the Director of Accounts (Postal) vide Annexure 14 has occurred only in the case of the applicant. This exceptional circumstance has to be brought within the provisions of existing rules. As such, the only scope is to allow the applicant to draw the pay of Rs 8,700/- as of 01-01-1997 when he opted for the revised pay scale, with a rider that pay over and above Rs 8,575/- for that year shall be personal to him. Similarly, the difference for the subsequent years should be treated as personal pay. Vide Rule 9(23) Personal Pay has been defined as under:-

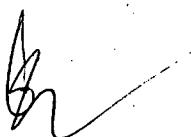
"Personal pay means additional pay granted to a Government servant -

(a) to save him from a loss of substantive pay in respect of a permanent post other than aq tenure post due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure; or

(b) in exceptional circumstances, on other personal consideration."

8. The Rule so providing, when the difference between the pay applicable to the applicant in the pay scale of Rs 6500 - 10500 and Rs 7450 - 11500 is made available to the applicant as personal pay, the result would be as under:-

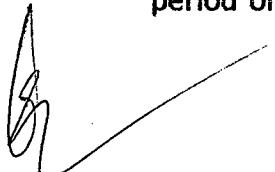
Pay in pay scale: 6500-10500 + *	Pay in Pay Scale 7450 - 11500 + *	Difference	Anomaly to be rectified by
01/01/97 8,700/-	Rs 8,575/-	125/-	Personal pay of 125/-



Pay in pay scale: 6500-10500 + *	Pay in Pay Scale 7450 - 11500 + *	Difference	Anomaly to be rectified by
01/01/98 8,900/-	Rs 8,800/-	100/-	-do- 100/-
01-01-99 9,100/-	Rs 9,025/-	75/-	-do- 75/-
12-07-99 9,250/-	Rs 9,250/-	-	NII
01-01-00 9,750/-	Rs 9,500/-	250/-	Personal Pay of 250/-
01-01-01 10,000/-	Rs 9,750/-	250/-	-do- 250/-
01-01-02 10,250	Rs 10,000/-	250/-	-do- 250/-
07-11-02 10,750	Rs 10,475/-	275/-	-do- 275/-
29-04-03 11,025/-	Rs 10,750/-	275/-	-do- 275/-

9. In view of the discussion above, the O.A. is allowed to the extent that the respondents shall not truncate the amount of pay as paid to the applicant when the replacement pay scale for Rs 2000 - 3200 was Rs 6500 - 10500/- on the replacement scale having been enhanced to Rs 7,450 - 11,500/- but treat the difference as personal pay as provided for under the provisions of F.R. 9 (23) and the same shall continue to be so till the date of superannuation of the applicant. And this personal pay shall also be treated as pay for the purpose of pension, so that there shall be no depletion in the pension payable to the applicant.

10. Respondents are directed to pass suitable orders in this regard, within a period of four months from the date of communication of this order.

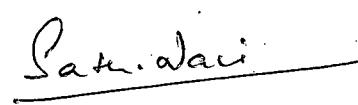


11. Under the circumstances, there shall be no order as to costs.

(Dated, the 3rd April, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

CVR.