

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.157/98

Thursday, the 2nd day of April 1998.

CORAM

HON'BLE MR A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR S.K. GHOSAL, ADMINISTRATIVE MEMBER

K. Velayudhan
S/o Chekkuthy
Extra Departmental Branch Postmaster
Vavad P.O.
R/o Kandavammel Veedu
Vavad P.O.

...Applicant

(By advocate Mr MR Rajendran Nair)

Versus

The Senior Supdt of Post Offices
Kozhikode.

...Respondent

(By advocate Mr Mathews J Nedumpara, ACGSC)

The application having been heard on 2nd April 1998, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

When the applicant was working as Extra Departmental Sub Post Master (EDSPM), Vavad Sub Post Office, the office was downgraded as Branch Post Office and the incumbent was re-designated as Extra Departmental Branch Post Master (EDBPM) w.e.f. 3.1.85. The allowance of EDSPM was Rs.295 per month and that of EDBPM was Rs. 255. However, the allowance given to the applicant was protected. The grievance of the applicant is that when the allowance was revised w.e.f. 1.1.86 and again from April 1993, the respondents did not pay to the applicant the allowance corresponding to the allowance which he was drawing but limited it to the allowance corresponding to that of EDBPM. Similarly situated petitioners like the applicant, aggrieved by not being granted the corresponding revision in allowance filed an OA 1408/96 which was

allowed by this Tribunal directing the respondents to grant to the applicants in that case appropriate rates with effects from appropriate date. Coming to know this, the applicant herein made a representation on 12.7.97 but the same was turned down by order dated 29.8.97 (Annexure A-2), stating that the applicant was not a party to OA 1408/96, he would not be entitled to the benefit of the judgement. It is aggrieved by this that the applicant has filed this application for a declaration that the applicant is entitled to get the pay and allowance applicable to the post of EDSPM and that the revision/reduction of his pay and allowance is illegal, and for a direction to the respondent to pay him the pay and allowances applicable in the post of EDSPM with all its arrears from 1.1.86 with 18% interest per annum.

2. The respondents in their reply statement contend that what was directed in respect of the applicant was only the allowance and not the rate of allowance and, therefore, the applicant is not entitled to the revision of allowance corresponding to the basic allowance of the EDSPM since he is working as EDBPM. It is also contended that there has been a reduction in the working hours which does not justify paying "the same pay and allowances as EDBPM.

3. When the application came up on the last date for hearing, learned counsel for the respondents sought some time to get instructions as to whether there has been any change in the working hours after the office was downgraded. The counsel stated that he has been informed that there has not been any change and that the applicant in this case is, in all respects, similarly situated like the applicants in OA 1408/96. However,

the counsel for the respondents stated that the respondents are sticking to the stand that the applicant is not entitled to the revised allowance as claimed by him and that an appropriate decision may be taken.

4. After hearing the learned counsel on either side and on a perusal of the pleadings and materials on record including Annexure A-4 order of this Tribunal in OA 1408/96, we find little merit in the contention of the respondents that the applicant is not entitled to the revised allowance corresponding to the one which was being paid to him on downgrading of the office.

5. In the Annexure A-3 order by which ED~~SPO~~ was downgraded as EDB~~P0~~, the following stipulation has been made:

"There will be no change in the establishment of EDBOs but the posts of EDSPMs will be redesignated as EDBPMs on the same allowance. The incumbent BPM will be paid the same allowances last drawn by him/her as EDSPM until he/she vacates the post of EDBPM of that office or the EDBO in question qualifies to be upgraded as an EDSO under the new standard whichever is earlier."

6. It is evident from the above extract that the rate of allowance payable to the incumbent would remain the same despite the down-grading of the ED~~SPO~~ to EDB~~P0~~ as long as he continues in that office. Once that rate is revised, it goes without saying that he would get the rate of allowance at the corresponding revised rate. There is no justification at all in saying that on revision, his allowance would be reduced to that of EDBPM. The same question was considered by the Tribunal in OA 1408/96 and the Tribunal has upheld

the claim of the applicants and directed the respondents to pay revised rate of allowance with interest at 18% per annum.

7. We do not find any justification in taking a different view in this case because we are in respectful agreement with the decision taken in that case. The contention of the respondents that the applicant not being a party to OA 1408/96 is not entitled to the benefit of the judgement, to our mind, appears to be a cantankerous one which the Government is not generally expected to take. The Government being a model employer has to treat all its employees without discrimination. Just because the applicant is not a party in OA 1408/96, it is absolutely unjust to deny him his real due.

8. However, learned counsel for the respondents made a submission that as the applicant has not been vigilant as the applicants in OA 1408/96, and has come to the Tribunal only later, there may be a re-consideration in the rate of interest payable on the arrears of allowance in the case of the applicant. We consider this request as reasonable.

9. In the light of what is stated above, we allow this application, declaring that the applicant is entitled to get allowance applicable to the post of EDSPM at the rate revised as on 1.1.86 as also April 1993 and direct the respondents to draw and disburse to the applicant the allowance at the revised rate w.e.f. 1.1.86 as also

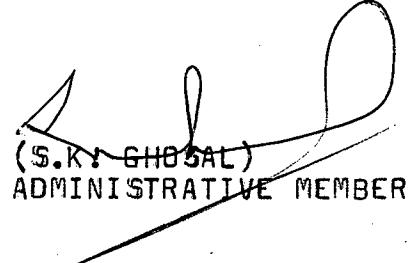
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April 1993 and pay him the dues of ~~the~~ the arrears with interest at 12% per annum.

The above exercise shall be completed and payment made within a period of two months from the date of receipt of a copy of this order.

No order as to costs.

Dated 2nd April 1998.


(S.R. GHOSAL)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A2: Memo dated 29.8.97 No.B3/485 issued by the respondent to the applicant.
2. Annexure A3: Memo dated 27.12.84 No.A1/Misc. issued by the respondent.
3. Annexure A4: Order dated 26.2.97 in OA.1408/96 of this Honourable Tribunal.

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