

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 365 of 1991
~~XXXXXX~~

DATE OF DECISION 19.12.1991

A.S.Viswambaran Applicant (s)

Mr.Thomas Mathew Advocate for the Applicant (s)

Versus

Superintendent of Post
Offices, Irinjalakuda and
3 others Respondent (s)

Mr.K.A.Churian, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman
and

The Hon'ble Mr. N.Dharmadan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application dated 4.2.1991 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as a Postal Assistant in the Kerala Circle has prayed that the respondents be directed to appoint him in the pre-revised scale of Rs.425-640 with effect from the date of his re-deployment with all consequential benefits and also to fix his pay under F.R.22-C with effect from 7.5.77. He has also prayed that he should be granted Time Bound One Promotion with effect from 21.5.1986 when he completed 16 years of service including his service as an L.D.C.

2. The brief facts of the case are as follows. The applicant was appointed as an L.D.C (Rs.260-400) on 20.5.70 in the Mana Camp, Raipur under the Department of Rehabilitation. The applicant was surrendered as surplus with the Central Surplus Staff Cell with effect from 31.10.76 and was re-deployed to the post of Time Scale Clerk in the Postal Department. He was absorbed in the Postal Department with effect from 7.5.77. When the pay scale of L.D.Cs in the Rehabilitation Department was revised retrospectively to Rs. 425-640, the D.G. P&T issued instructions dated 2.9.88 (Annexure.A.3) that the surplus officials of the Rehabilitation Department who were deployed as Post^{-al}/Assistants/Sorting Assistants should be appointed in the pre-revised scale of Rs.425-640 if a vacancy existed on the date of their re-deployment. If vacancy was not available they may be given the pre-revised pay scale of Rs.425-640 on a personal basis while working as Post^{-al}/Assistants/Sorting Assistants. The applicant represented to get the benefit of this order, on 27.9.89 (Annexure-A.4) stating that he was re-deployed in the Postal Department as a Postal Assistant with effect from 7.5.77 and he should be given the revised pay scale of Rs.425-640 and that having completed 16 years of service in April, 1986 he should be given Time Bound One Promotion. He made another representation to the D.G. P&T on 16.8.90 (Annexure.A.5) but he was informed vide letter dated 10.1.91 at Annexure.A.6 that his case ^{was} ~~is~~ pending with the Directorate. His further grievance is that his pay while appointed as Time Scale Clerk was not fixed under F.R. 22-C.

3. The respondents in their counter affidavit have

stated that the Time Bound One Promotion scheme is not available for LDCs/UDCs and therefore, the applicant's service in his parent department cannot be counted towards 16 years of service for such promotion. Having been appointed as a surplus staff, he could not be given the benefit of FR 22-C. They have, ~~however~~^{he} stated that the representations of 27.9.89 and 16.8.90 are pending with the Directorate. They have however, conceded that the applicant was absorbed as a Time Scale Clerk (Postal Assistant) on 9.5.77 and not on 7.5.77.

4. The applicant has argued that since he was absorbed in the cadre of Postal Assistant in the higher scale of Rs.260-480 as against the lower grade of L.D.C ie., Rs.260-400, he is entitled to the benefit of F.R. 22-C. He has argued that the respondents have given no reason why the D.G. P&T's direction has not been implemented.

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Since the applicant was re-deployed from the Surplus Cell, he has to be considered to be a fresh employee and accordingly ^{the} benefit^{he} of FR 22-C is not available to him. The direction of the DG P&T as per his letter dated 2.9.88 at Annexure.A.3 reads as follows:

"I am directed to say that many erstwhile Mana camp employees were re-employed to Postal Department on being rendered surplus in the Rehabilitation Department. Initially many of them were appointed in the PAs/SAs cadre on their re-employment. Subsequently their pay scale in the Rehabilitation Department got revised retrospectively which necessitated their placement in the pay scale of Rs. 425-640/-. It was decided in consultation with the DOP&Trg that the surplus officials may be appointed in the prev-revised grade of Rs.425-640 if vacancy in the grade is available on the date of their re-deployment. If vacancy in the appropriate grade was not available the staff was to be appointed in the pay scale of Rs.425-640/- (pre-revised) on personal basis while working as PAs/SAs."

Since the applicant was absorbed as a Postal Assistant with effect from May, 1977 from the Surplus Cell he is entitled to get his pay fixed as Postal Assistant in the pre-revised grade of Rs.425-640. If ^ovacancy ~~is~~ ^{was} not available, he can be given the pay scale as personal to him.

6. As regards promotion under the Time Bound One Promotion scheme there is no reason why the applicant should not ^{be} ~~have been~~ given one promotion atleast from ~~9-5-83~~ ⁹⁻⁵⁻⁹³ when he completed 16 years of service in the Postal Department. Since by coming over from the Surplus Cell there was a virtual break in the service in the parent department, the applicant cannot count his service in the Rehabilitation Department for the purpose of promotion under the Time Bound One Promotion scheme.

7. In the facts and circumstances, we allow this application in part to the extent of direct^{-ing} the respondents to allow the applicant the pay scale of Rs.425-640 (pre-revised) with effect from 9.5.77 with all consequential benefits of pay and arrears. He should also be considered eligible for promotion under the Time Bound One Promotion Scheme ^{at least} with effect from ~~9-5-83~~ ⁹⁻⁵⁻⁹³. However, this will not prejudice the applicant's case if the respondents as a matter of policy decide to count the previous service of the applicant in the parent department as qualifying service for 16 years qualifying service for Time Bound One Promotion scheme. There will be no order as to costs.

(N.D.HARMADAN)
JUDICIAL MEMBER

(S.P.MUKERJI)
VICE CHAIRMAN

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Corrections
carried out as
per orders of the
Court dt 19-3-92
in M.P. 442/92
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A.No.51/92 in

O. A. No.
~~xxxxxx~~

365/91

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DATE OF DECISION 28-4-1992

Superintendent of Post Applicant (s)
Offices, Irinjalakuda and 3 others

Mr. K.A.Churian, ACGSC Advocate for the Applicant (s)

Versus

A.S.Viswambharan Respondent (s)

Mr.Thomas Mathew Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.Mukerji, Vice Chairman


The Hon'ble Mr. N.Dharmadan, Judicial Member

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JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

We have gone through the Review Application. This is based mainly on the ground that the Annexure.A.3 of the main O.A. is not a decision but a circular inviting details from officials concerned. The extracts of Annexure-3 as quoted in para 5 of the judgment clearly state that on retrospective revision of pay scale, the surplus staff absorbed in P&T are to be given the pay scale of Rs.425-640. In the circumstances we see no ground for review as there is no error apparent on the face of record. Accordingly we dismiss the Review Application.


(N.DHARMADAN)
JUDICIAL MEMBER

28.4.92


(S.P.MUKERJI)
VICE CHAIRMAN

28.4.92

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