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Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No: 260/2008

This, the 26th day of September 2008

HON'BLE DR. A. K. MISHRA, MEMBER (ADMINISTRATIVE)

1. Shyam Sundar Bhattacharya
Aged about 48 years,
S/o Sri A. K. Bhattacharya,
R/o 614/257, Preeti Nagar Dudauli Marg
Sitapur Road, Lucknow
At present working as Group D,
O/O Director Accounts (Postal)
Aliganj Lucknow.
2. Ram Kishore Maurya
Aged about 41 years
S/o Sri Devi Deen Maurya
R/o 547/461, Jalalpur,
P.O. Rajaji Puram
Lucknow working as Group 'D'
O/O Director Accounts (P)
Aliganj Lucknow.

Applicants.

By Advocate Sri R. S. Gupta.

Versus

1. Union of India through
The Secretary Department of Post
Dak Bhawan,
New Delhi.
2. Chief Postmaster General
U.P. Lucknow.
3. Director Accounts (Postal)
U.P. Circle Aliganj Lucknow.

Respondents.

By Advocate Sri K.K. Shukla for Sri S. N. Mishra.

Order

BY HON'BLE DR. A. K. MISHRA, MEMBER (A)

The applicants have challenged the order of the respondents confirming their decision to fix the pay of the applicants at the minimum pay scale of Group D employees at the time of their regularization.

2. The case of the applicants, in brief, is stated as under:-
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The applicants have been working as Casual employees under the respondents since long and they were granted temporary status w.e.f. 28.11.89 and 23.8.91 respectively. They were also given facilities of temporary status including grant of annual increments applicable to Group D scale. After many years, they were regularized under the scheme of regularization notified by the Department of Personnel and their pay was fixed taking into account the last pay which they were getting as a casual employee with temporary status.

3. The audit objected to such fixation and directed that it should be fixed at the minimum scale namely 750/- as per the provisions of FR-22 not at Rs. 798/- on the basis of increments earned. The respondents revised the pay fixation and directed for recovery of the excess pay. Prima facie, this is an unreasonable act on the part of the respondents which was against the elementary principle of natural justice. What is meant by natural justice is that the employer should be fair in its dealing with the employee. It is beyond any one's imagination how a poor employee who had earned a small pittance by way of increments through his long service to the employer should be asked to receive a lower pay at the time of regularization. Therefore, this Tribunal had directed the respondents to keep in view the decisions of the Hyderabad Bench of this Tribunal in O.A. No. 1051/98 as well as the decision of Lucknow Bench in O.A. No. 135/2000, where the respondents were directed not to reduce the pay at the time of regularization. In spite of such a direction, the respondents vide their letter dated 16th May 2008 took the view that the pay fixation had been made as per FR-22 as well as the instructions issued in DOP&T OM No. 49014/4/2007 dated 29.1.1998.

4. The DOP&T has now issued fresh instructions on the subject on 9.5.2008, which were conveyed by the Department of Post in their letter dated 12.6.2008. Now, the Government has conceded the claim that while fixing the pay of casual laborers with temporary status on regularization against Group D posts, the increments already earned by them should be taken into account. Better late than never. At long last, the elementary commonsense has prevailed over



the obduracy of bureaucratic non-reason, but not before inflicting the mental torture on the poor employees to fight out for protection of their rights not once but twice.

5. The respondents have now admitted that the pay of the applicants had been fixed as per their claim and the arrear amount had ^{already} been paid. In view of the satisfactory conclusion of the needless debate, the applicants should not have any more grievance.

6. The application is disposed of as infructuous.


(Dr. A. K. Mishra)
Member (A)

v.