

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A.No.384/96

DATE OF DECISION: 04-AUG-2000.

Jagdhari Singh, son of Late Mahendra Singh, resident of village  
Piyarpurwa, P.S.: Marhowrah, District : Saran (Chapra).

.....APPLICANT

By Advocate : Shri R.K.Sharma.

vs.

1. The Union of India through the Secretary, Ministry of Communication, Department of Posts, Govt. of India, Dak Bhavan, Sansad Marg, New Delhi-1.
2. Director General, Deptt. of Posts, Ministry of Communications, Govt. of India, Dak Bhavan, Sansad Marg, New Delhi-1.
3. Chief Post Master General, Bihar Circle, Patna.

.....RESPONDENTS.

By Advocate :- Shri S.C.Jha,  
Addl. Standing Counsel.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.

OPEN COURT ORDER

JUSTICE S.NARAYAN, V.C.:- In sum and substance, the applicant has prayed for primary relief by way of direction upon the respondents to extend the benefit of pay in Higher Selection Grade-I from 1st January, 1973, as also to re-fix the retiral benefits on the basis of higher pay-scale to which the applicant was entitled to pursuant to the Third Pay Revision Commission Report accepted by the Director General, Posts & Telegraph, New Delhi, by the letter No.31-1/74-PE-I, dated, 19th June, 1974. The applicant has also prayed for interest on account of delay in settling the claim and payment thereof.

2. Admittedly, the applicant having served the respondents in various capacities after his joining the office on 14th October, 1935, retired on superannuation w.e.f.1st April, 1974. It needs to be recorded here that around the period of his retirement, there was a Government order, as contained in D.G.P.T., New Delhi, letter dated, 19th June, 1974, referred to above, vide Annexure-1, that pursuant

to the acceptance of the recommendation of the Third Central Pay Commission, the President had been pleased to decide as follows :-

- "(a) Sub Postmasters and Head Postmasters supervising six or more Lower Selection Grade officials in the office will be placed in HSG-I in the pay scale of Rs.700-30-760-35-900.
- (b) (i) Head Postmasters not covered by item (a) above.
- (ii) Deputy Postmasters in the existing HSG in the Gazetted HPOs, and
- (iii) Sub Postmasters supervising 2 to 5 L.S.G. officials will be placed in H.S.C. II in the scale of Rs.500-20-650-25-750.

The above decisions take effect from 1.1.1973.

3. Obviously, for the reason that the applicant retired on superannuation w.e.f. 1st April, 1974, he was entitled to all the benefits as provided through the Government decision, contained in the aforesaid letter (Annexure-1). On the pleadings of the parties, as also in the light of the oral submission made, I get an impression that the aforesaid benefit, for one reason or the other, could not be made available to the applicant and that was the bone of contention for which the applicant has to come with the instant OA.

4. It is not a case that the respondents have altogether denied the entitlement of the applicant to the aforesaid benefit rather, it was on the plea that the applicant moved in the matter at a very belated stage and further, that certain papers <sup>were</sup> required to consider his claim and those were not made available by him and, accordingly, he was not entitled to the relief sought for in the instant O.A.

5. While referring to the contention raised in para-4 of the written statement, learned counsel appearing on behalf of the applicant submitted that sometime in the year 1994, the respondents did take-up the cause of the

applicant and asked for certain papers from him, but on account of those papers not being made available to the respondents, his claim had ~~been~~ refused.

6. In regard to the above plea raised on behalf of the respondents, I would like to say that the applicant was not asking for any bounty rather, he was asserting his claim which had accrued to him during his service career and further, that the respondents, being the employer, were under obligation to see and secure the correct fixation of pay in furtherance of the Pay Revision Committee Report, already adopted by the Government, and also to provide him retiral benefits in terms thereof. So far certain wanting papers for consideration of the applicant's claim <sup>were</sup> concerned, I find that the respondents by a letter dated, 9th February, 1994, asked the applicant to file -

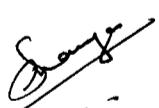
- (i) copy of circle gradation list of HSG-I cadre of 1974;
- (ii) copy of deployment order issued by Bihar circle putting into effect the recommendation of third pay commission with regard to HSG-I cadre; and
- (iii) a certificate to the effect that the applicant was otherwise fit for promotion to HSG-I at that time.

Some more papers were asked for by the respondents through the letter dated, 17th October, 1994, such as, file of deployment order of the applicant, order issued by the Circle office and some other papers. I do not feel hesitant in saying that the papers, referred to above and asked to be produced from the custody of the applicant, were supposed to be in custody of the respondents. One could never appreciate that the papers, which are supposed to be in exclusive custody in the office of the respondents, should be asked from the applicant. This was, probably, done as a lame excuse to refuse the applicant's claim. And in any view of the matter,

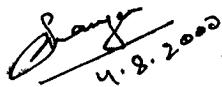


even if those were not easily traceable in the office of the respondents, the concerned authorities were under obligation to go for re-construction of those papers in accordance with law, either asking <sup>for</sup> ~~the~~ copy from any other available source, or from registers in the office which have got much longer life. Even in regard to the personal file of the applicant, counsel for the applicant convinced me ~~incorrectly~~ by referring to the extract of the Postal Accounts Manual, Volume-I, Appendix-III, vide Annexure-R/2 appended to the supplementary affidavit, ~~wherein~~ <sup>it is</sup> asserted that even the personal file of an incumbent has a longer life than what has been asserted on behalf of the respondents.

7. For the reasons, aforesaid, I find sufficient merit in the instant application and, accordingly, it is allowed. Of course, it is not possible on the materials available on the record to quantify the actual claim of the applicant and, therefore, the exercise as such, has to be made in the office of the respondents. What is needed to be expressed herein <sup>is</sup> that this exercise should be completed within six months from the date of communication of this order so that an appropriate order be passed by the respondent authority in regard to settling the fixation of pay of the applicant at the time of retirement incorporating the benefits which had been made available to him upon acceptance of the Pay Revision Commission's Report, togetherwith the retiral benefits arising out of the pay fixation. Since there was already an inordinate delay, I would prefer to quantify the interest over the amount which had actually accrued to the applicant and, accordingly, it is directed that the applicant would be also entitled to an interest to the tune of 12% p.a. over the amount actually fallen due to him after necessary adjustment of the amount already paid to him for the



period till the actual payment. There shall be, however, no order as to costs.

  
11.8.2002

(S. NARAYAN)  
VICE-CHAIRMAN

skj