

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No.480 of 1996

Date of order 10-11-2000

Vijai Kumar Sinha, son of Late Uma Shankar, Mohalla  
Turhatoli, Buxar, at present posted as Sub-Postmaster,  
Irarhi Sub Post Office, District Buxar.

.. Applicant

-versus-

1. Union of India through DG (Post), Govt. of  
India, New Delhi-1.
2. Chief Postmaster General, Bihar Circle, Patna-1.
3. Supdt. of Post Offices, Bhojpur Division, Arrah.

.. Respondents

Counsel for the applicant ..Shri N.P.Sinha.  
Shri I.D.Prasad.

Counsel for the respondents .. Shri H.P.Singh.

CORAM : Hon'ble Mr. Justice S.Narayan, Vice-Chairman.  
Hon'ble Mr. L.R.K.Prasad, Member (A)

ORDER

L.R.K.Prasad, Member (A) :-

Through this application, the applicant has prayed for issuance of a direction on the respondents to step up the pay of the applicant by ante-dating his date of increment from 1.11.1986 to 1.2.1986 with consequential benefits. The applicant has also filed M.A.106/97 praying for quashing the order passed by respondent no.2 in his order NO.AP/B-1/1-87 dated 5.8.1987 (Annexure-A-2) and the orders communicated to him on 20.5.1995 (Annexure-A-5).

2. We have heard the learned counsel for the parties and perused the materials on record.

2. The applicant joined as Postal Assistant in the Ranchi Postal Division on 15.10.1966. Since, 1972, he has

been working as Postal Assistant in Bhojpur Postal Division. It is stated that a policy-decision was taken by the Government to the effect that the employees were to be granted time-bound one promotion scheme on completion of 16 years of service. The said scheme was introduced from 30.11.1983. On completion of 16 years of service, he was promoted in the L.S.G. cadre with effect from 30.11.1983. It is the claim of the applicant that on the basis of recommendations of the 4th Pay Commission, his pay should have been revised to the scale of Rs.1400-2300 with effect from 1.1.1986 as he was already in the pre-revised scale of Rs.425-640. The persons like one Harishankar Sahay, who was junior to him and drawing the pre-revised scale in the basis of Rs.440/- ~~had~~ had been granted the revised scale of Rs.1440/- but the same was not granted to the applicant. In this regard, he has drawn our attention to the comparative statement as explained in paras 4.5 and 4.6 of the O.A. It is further stated that the anomaly in pay fixation became more pronounced <sup>where the</sup> ~~fixed~~ Pay of said Harishankar Sahay was <sup>fixed</sup> Rs.1480/- with effect from 1.2.1986, whereas, the pay of the applicant was Rs.1440 and was brought to Rs.1480/- with effect from 1.11.1986. Therefore, from 1.2.1986 the applicant continued to draw Rs.40/- less than Shri Hsrishankar Sahay. The applicant has further stated that under B.C.R.Scheme, he was promoted in the scale of Rs.1600-2660 with effect from 1.1.1993 which was earlier than Shri Sahay. In order to remove anomaly, the applicant for the first time filed a representation on 6.4.1987 which is at Annexure-A-1. The said representation was rejected (Annexure-A-2) on the ground that he claimed for stepping up his pay at Patna Division, which was not permissible under rule. The rejection order is under challenge. The applicant again filed representation before the relevant authorities

on 9.6.1988 and on 29.12.1993 followed by several reminders. vide letter dated 20.9.1995 (Annexure-A-5), the applicant was informed that his case was rejected on the ground of divisinalisation of LSG cadre, according to the departmental instruction dated 13.12.1985, as mentioned therein. In support of his claim, the applicant has relied on the decision of Chandigarh Bench of CAT in case of O.P. Gupta and others. vs. Union of India and others reported in (1995) 31 ATC-84 wherein it has been made clear that the ~~senior~~ is always entitled to stepping up his pay with reference to pay of his junior except where senior's pay has been reduced as a disciplinary measure. He has also pointed out that <sup>for</sup> LSG officials, the gradation list is common and not maintained Division-wise.

4. The relevant placitum portion of the orders of CAT, Chandigarh Bench, in O.P.Gupta's case are reproduced below:-

"A. Pay-Pay fixation-Anomaly-Senior, held is always entitled to stepping up of his pay with reference to pay of his junior except when senior's pay has been reduced as a disciplinary measure-Hence, stepping up is permissible when junior's pay was fixed at higher stage due to his previous ad hoc officiation on promotion post.

B. Pay-Pay fixation-Anomaly-All India gradation list-Inter se position of senior and junior ascertained with reference to gradation list and stepping up of pay for the purpose of removal of anomaly, held, permissible because promotions for employees working in various circles were being regulated according to this gradation list and respondents were not able to give satisfactory proof that circle gradation lists also existed.

C. Administrative Tribunals Act, 1985-S.21(1)-Limitation-Continuing wrong-Pay fixation-

Held on facts, cause of action arose after the judgment delivered by the Tribunal in an earlier case-Such judgment also held to be judgment in rem-Hence, claims for pay fixation in the present case not time-barred."

5. It may be stated that the facts and circumstances of the instant case and the case cited by the applicant, as stated above, are different.


6. The above application has been opposed by the respondents. It is stated that as the applicant was drawing pay of Rs.455/- in the pre-revised scale of Rs.425-640 from 1.11.1985, his pay was fixed in the revised scale of Rs.1400-2300 at the stage of Rs.1440/- with the date of next increment on 1.11.1986. The applicant had made a representation for stepping up of his pay with reference to one Shri Hari Shankar Sahay, Postal Assistant of Patna Division. The same was not exceeded to by the respondents on the ground that on account of divisionalisation of LSG cadre, the stepping up of pay of the applicant was not possible on the basis of pay of the official working in Patna Division. The applicant was, accordingly, informed vide letter dated 5.8.1987 (Annexure-R/1). It is further stated that the LSG cadre was divisionalised with effect from 30th November 1983. It has been clarified in DGP&T letter No.3-50/74-PAT dated 5.2.1976 that the seniority list maintained in the Division in respect of divisional cadre, such as, Telephone Operators, Time scale Clerks, RMS Sorters, etc. may be taken as the basis for allowing the benefit to the officials borne on the aforesaid cadres. Therefore, according to the respondents, as the LSG cadre was the divisional one, the stepping up of pay of the applicant was to be considered with reference to the pay of the officials of Bhojpur Division only.

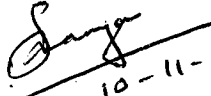
7. We have taken note of the DG Posts letter No.6-19/92-SPB II dated 13.12.1985 (Annexure-A-3) which indicates that it was decided by the Postal Services Board to make Lower Selection Grade a divisional cadre. The officials in the LSG cadre will be borne on the gradation list of the Division/Unit. It makes it clear that the supervisory posts in the Division/Unit will be held by the officials on the basis of seniority in the grade in that particular Unit. It further clarifies that for the purpose of promotion to LSG Postal Assistant/Sorting Assistant in all the units located at Bombay, Calcutta, Delhi and Madras and those cities where more than one Division exists, will constitute one Circle cadre. LSG officials in the Division in these cities will be borne in a common divisional cadre.

8. It is the claim of the applicant that he is entitled for the relief on the ground that divisionalisation of LSG cadre was not done before 1.1.1986 and the process was completed much later while the stepping up of pay is to take place with effect from 1.1.1986, the date of implementation of the report of the 4th Pay Commission. On that date, LSG was a circle cadre and not divisionalised. Therefore, according to the applicant, his case should be considered on the basis of the circle seniority (Circle gradation list) and not on the basis of divisional gradation list. The Circle gradation list as at Annexure-A-6 regarding L.S.G. and H.S.G. cadre in Bihar Circle shows that while the applicant is placed at Serial No. 1793, one Shri H.S. Sahay has been placed at Serial No.1948. This has not been denied by the respondents. However, it is not clear from the pleadings of the parties as to from which date, the LSG cadre was

divisionalised. If the same was done before implementation of the recommendations of the 4th Pay Commission with effect from 1.1.1986, the applicant will have no case because his case will have to be considered with reference to his seniority in the concerned division and not with reference to his seniority in the Circle gradation list. However, if the divisionalisation of cadre of L.S.G. has come into existence after 1.1.1986, then the applicant's case stands on a better footing for stepping of his pay with reference to his junior one Shri Hari Shankar Sahay.

9. In view of the above facts and circumstances of the case, we dispose of this O.A. by directing the concerned respondents to reconsider the case of the applicant in the light of our observations made hereinabove and pass appropriate order in accordance with law/depart-mental instruction, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to the costs.

  
(L.R.K. Prasad)  
Member (A)

  
(S. Narayan)  
Vice-Chairman