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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 402/87

Transfer Application No: ----

DATE OF DECISION 29.1.93

Ambaji Balaram Mutalik Desai Petitioner

Mr.S.P.Kulkarni

Advocate for the Petitioners

Versus

Union of India and two ors.

Respondent

Mr.V.M.Bendre for Mr.P.M.Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice-Chairman

The Hon'ble Shri ---

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. Whether it needs to be circulated to other Benches of the Tribunal ?

ND

S.K.DHAON
(S.K.DHAON)

VC

MD

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(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.402/87

Ambaji Balaram Mutalik Desai,
226, Subhas Galli,
Angol,
Belgaum-590 007

.. Applicant

-versus-

1. The Union of India
through
Director General Posts,
New Delhi - 110 001.
2. Post Master General,
Maharashtra Circle,
Bombay - 400 001.
3. Senior Superintendent of
Railway Mail Service,
Bombay Division. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

Appearances:

1. Mr.S.P.Kulkarni
Advocate for the
Applicant.
2. Mr.V.M.Bendre
for Mr.P.M.Pradhan
Counsel for the
Respondents.

JUDGMENT: Date: 29.1.93
(Per S.K.Dhaon, Vice-Chairman)

The applicant was employed as a Sorting Assistant in the RMS Bombay in the pay scale of Rs.260-480. On 14-12-1967 he was sent on deputation to the Army Postal Service and was given a deputation allowance of 10% on the last pay drawn by him. On 5-4-1971 he was promoted as Naik in the pay scale of Rs. 425-640. On 3-6-1981 he was given another promotion to the post of Subedar in the pay scale of Rs.550-900. He was getting Rs.7620/- per month when he was repatriated as LSG Supervisor on 13-7-83 when his pay was fixed at Rs.500/- He has come to this Tribunal with

two prayers. They are:-(i) he should have been paid Rs.620/-pm even as LSG Supervisor, the last pay drawn by him in the Army Postal Service and (ii) since during his absence juniors to him had been promoted even though on officiating basis and they are being paid emoluments higher than him (the applicant), in other words, they are receiving more than Rs.500/- therefore, the applicant should paid the same amount as those junior to him so that he may be brought on par with them.

2. A reply has been filed on behalf of the respondents. The material averments are these: While in the Army Postal Service the applicant got local promotion to the post of LSG and HSG, the applicant was repatriated to the parent department at his own request, in the lower selection grade, in the parent department his pay was fixed with reference to his seniority in the time scale(i.e. Sorting Assistant), the fixation of the applicant's pay was based on the relevant fundamental rules and orders on the subject, the applicant's ✓ juniors who had been earlier officiating in the Lower Selection Grade got the benefit of fixation in the Lower Selection Grade when they were promoted on regular basis, the interest of the applicant was protected sofar as his promotion in the parent department was concerned, there is no order that the pay drawn during the deputation should be protected on return to parent department(civil side); When the applicant joined civil post in the Lower Selection Grade w.e.f. 13-7-1983 his pay was fixed at the stage of Rs.500/- as he would have drawn ^{pay} Rs.480/- as basic from 1-11-1981 in the scale of Sorting Assistant. The applicant was promoted in the Lower Selection Grade on return from Army

Postal Service and according to the provisions of fundamental rule 22~~(c)~~ one notional increment at the rate of Rs.12/- was given to him in the Sorting Assistant's Grade pay scale. The Director of Audit and Accounts (Postal), Nagpur has rejected the representation made by the applicant against the said fixation.

3. Annexure R-2 to the reply filed on behalf of the respondents is the communication from Director of Accounts (Postal) Nagpur to the Superintendent RMS 'BM' Dn. Miraj dt. 17-6-86. In this communication it is emphasised that the applicant would have officiated as LSG w.e.f. 2-3-83 though he^{was} actually reverted to the parent department on 1-7-85, his pay as LSG in the pay scale of Rs.425/640 will have to be fixed on 2-3-1983 w.r.t his pay of Rs.480/- (maximum) admissible to him in the lower post of T/S Clerk. The applicant would have received the benefit of last pay drawn at the rate of Rs.620/- which he drew as Subedar, had he been considered for promotion in the parent department from 1-4-83 itself (i.e. the date from which he received promotion as Subedar in Army Postal Service).

4. The applicant retained his lien in the Postal department while on deputation. He had no right to continue on deputation for ever. He had to come back to the parent department and he volunteered to do so. His seniority in the parent department was kept in tact. When he came back to the parent department he was posted as LSG and he was given^{the} maximum pay viz. Rs.480/- No rule have been brought to my notice which would entitle the applicant to be paid Rs.620/- p.m., the last pay drawn by him in the other department

where he had gone on deputation.

5. therefore The applicant is not entitled to be paid a sum of Rs.620/-pm as his salary. In the application it has been averred specifically by the applicant that persons junior to him in the same cadre were getting more than the applicant. He also made a similar grievance in the representation to the Post Master General, Maharashtra Circle a true copy of which has been filed as Annexure 'C' to the application. He had made specific reference to the case of one Mr.Wagle. The reply on behalf of the respondent is that Mr.Wagle and another officer junior to the applicant who have been paid more than the applicant were posted in other divisions. However, the applicant has pointed out that the applicant as well as the officers junior to him are in the Maharashtra Circle. This fact is not disputed by the respondents. In my opinion, fair play and justice demands that the applicant should be paid the same amount which is being paid to Shri Wagle. Such an ~~xxx~~ arrangement would be in consonance ^{with} to the principle contained in FR17.

6. The applicant has also made a grievance that he is not being paid the bonus for the period 1-4-1983 to 12-7-1983. It appears that some correspondence is going on in the matter. Learned counsel for the respondents assured that very soon a decision will be taken. The respondents are directed to dispose of the matter related to payment of ~~xxx~~ bonus to the applicant expeditiously.

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7. The application succeeds in part. The respondents are directed to place the applicant on par with Mr. Wagle in the matter of fixation of pay of the applicant w.e.f. 13-7-1983, If any amount becomes payable to the applicant w.e.f. 13-7-83 as a result of increment in salary the same shall be computed and paid to the applicant within a period of four months from the date of production of a certified copy of this order by the applicant to the relevant authority. All arrears should be paid to the applicant within the said period. The future salary payable to him should accordingly be refixed.

8. There shall be no order as to costs.

MD

S.K.
(S.K.DHAON)
Vice-Chairman