

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 487/88

Transfer Application No: --

DATE OF DECISION: 31-3-94

S.P.Inamdar

Petitioner

Mr.S.P.Kulkarni

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr.P.M.Pradhan

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman

The Hon'ble Shri M.R.Kolhatkar, Member(A)

1. To be referred to the Reporter or not ? M
2. Whether it needs to be circulated to other Benches of the Tribunal ? M


(M.S.DESHPANDE)
V.C.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.487/88

S.P.Inamdar

.. Applicant

-versus-

Union of India & Ors. .. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman

Hon'ble Shri M.R.Kolhatkar,
Member(A)

Appearances:

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

ORAL JUDGMENT:
(Per M.S.Deshpande, V.C.)

Date: 31-3-94

The applicant, who belongs to the category of Inspector of Post Offices, has restricted the relief claimed by this application only to getting the pay equal to the Assistant Superintendent of Post Offices (ASPOs) who according to the applicant do the same or identical work and have the same powers as the former category.

2. It is not necessary to go into any detail for the purpose of deciding the present application. Suffice it to say that the ASPOs is a promotion post, the feeder category being the Inspectors of Post Offices. The category of ASPOs was formed by upgrading certain posts of Inspector of Post Offices. The parties have not filed the original letter by which the upgradation came to be made but reference is to be found in the notification

dt. 7-8-1979 (Annexure-19) under Article 309 of the Constitution whereby the recruitment rules ~~was~~ amended by what was titled as Posts and Telegraphs (Assistant Superintendents of Posts Offices and Railway Mail Service) Recruitment (Amendment) Rules, 1979. Against S.No.1, in column 12, the entry to be substituted was "Promotion from Inspectors of Posts Offices with three years regular service in the grade on the basis of seniority-cum-fitness." The pay scale for Inspector of Post Offices was Rs.425-750 which was revised on the basis of the recommendation of the IVth Pay Commission sub-division to Rs.1400-2300 while that of ASPOs pay scale was Rs.550-900 which came to be revised as Rs.1600-2900.

3. Learned counsel for the applicant did not question the position that the cadre of Inspector of Post Offices came to be partly upgraded and the upgraded cadre was ASPOs sub-division and the upgraded cadre was a promotional ^{Superintendent} post for the ~~Asstt. Superintendent~~ of Post Offices. The submission was that the Inspector of Post Offices and the ASPOs at Taluka level performed identical functions. It was not disputed that the ASPOs who are attached to the sub-divisional places ^{their} were interchangeable with ~~Asstt.~~ counterparts in the circle or divisional headquarters.

4. The powers and ~~duties~~ of the Inspector of Post Offices and Asstt. Superintendent of Post Offices have been enumerated in Chapter-3 of P&T Manual Vol. VIII. Rule 260 thereof defines the Jurisdiction of Inspectors and provides that "Every Superintendent's division is apportioned

into sub-divisions, each of which comprises certain sub and branch offices and mail lines and is placed under the control of an Inspector, who is immediately subordinate to the Superintendent of the Division. The extent of each Inspector's sub-division is fixed by the Head of the Circle." Rule 260(A)(1) provides that "An Inspector of post offices when attached to the office of the Head of the Circle is designated as Investigating Inspector. Officials of the cadre of Inspectors of Post Offices are also attached to the office of the Superintendent of Post Offices in the Higher Selection grade and designated as Assistant Superintendents." Sub-Rule (2) provides that "The principal duties of an Investigating Inspector are to investigate important cases of loss, fraud, etc., particularly in which more than one Postal and R.M.S. divisions are concerned." Rule 260-B enumerates the functions of Asstt. Superintendent of Post Offices which comprises of their remaining in the Head Quarter when the Superintendent is on tour and looking ~~to~~ to the entire supervision of the office and control ^{of} ~~all~~ the staff of the Divisional office. He will dispose of all the routine cases not requiring the sanction or orders of the Superintendent and sign papers relating to leave and transfers except orders of punishment or appointment. Further when the Superintendent is not at headquarters and cannot reach the place of occurrence quickly, the Asstt. Superintendent will himself proceed on enquiries on the receipt of

loss, fraud, highway robbery etc. till the Superintendent arrives. On the other hand the powers of Inspectors are enumerated in Rule 261 and they include powers as defined in P&T Vol. Manual Vol. VIII. Notes 1 and 2 therein also provide for additional functions.

5. It is apparent from the above provisions that duties and functions of Inspector of Post Offices and Asstt. Superintendent of Post Offices are not similar. Under Rule 260(B) (2) there are certain additional duties which can be delegated to the Asstt. Superintendents and they are stated to be eight in number. It may be noted that under the rules these duties can be delegated only to the Asstt. Superintendents and not to the Inspectors. The above provisions would clearly show that the Asstt. Superintendent of Post Offices and Inspectors of Post Office have to perform different functions and it cannot be said that they do equal work. Their duties and functions have been demarcated distinctly by rules framed under Article 309. Even the recruitment rules for the two posts are different though the feeder cadre for the ASPOs would be entirely Inspector of Post Offices, the standard for promotion is seniority-cum-fitness. It is therefore clear that there is well marked distinction between the two cadres. There cannot be any dispute about the position that it is within the power of the Government to create as many cadres as necessary outlining their functions

and duties.

6. Learned counsel for the applicant relied on the decision of Bhagwan Dass v. State of Haryana (1987) 5 ATC 136. That was a case of temporary appointees who claimed parity in the matter of pay with employees of regular cadre in the same Govt. department and the Court observed that if their duties and functions were similar ^{any} there cannot be discrimination in pay between them merely on ground of difference in mode of their selection or that the appointment or scheme under which appointments made was temporary.

7. In para 13 of the judgment the Supreme Court pointed out that they were not called upon and had no need or occasion to consider the applicability or otherwise of the ~~six~~ doctrine outside the parameters of that case. For instance they were not required to express any opinion in the context of employment of similar nature under different employers. Nor they were concerned with questions required to be dealt with by authorities like the Pay Commissions such as equation of cadres or determination of parity-differential between different cadres or making assessment of workloads or qualitative differential based on relevant considerations and such other matters. The court made it clear that they were ~~were~~ concerned only with the employees of the same employer doing same work of same nature discharged in the same department but appointed on a temporary basis instead of in a regular cadre on a regular basis. The applicant herein cannot

derive any assistance from the observation made in Bhagwan Dass's case.

8. Reliance was also placed on the judgment of State of Madhya Pradesh & Anr. v. Pramod Bhartiya & Ors. 1993(2) SLJ 91(SC) where the ambit of Article 14 was considered in considering and it was held that equal pay for equal work many things like responsibility, skill, effort, conditions of work etc. are required to be considered and since there was no proof of equal responsibilities, duties and function, in that case the applicants were not entitled to any relief.

9. In the present case we find that the requirements which will enable the applicant to claim parity in the matter of pay with the Asstt. Superintendent of Post Offices have not been established. On the contrary, we find that the two posts are dis-similar in the matter of duties and functions and responsibilities. What is more the post of ASPOs is a post in the higher cadre which is the promotional cadre and the feeder cadre is Inspector of Post Office - to which cadre the applicant is belongs. No other points are pressed. We see no merit in the application which is dismissed. No order as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)


(M.S.DESHPANDE)
Vice-Chairman