

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO.847/99,
972/99 AND 55/2000
DATED THE 14TH DAY OF JUNE 2002

CURAM:HON'BLE SMT.SHANTIA SHASTRY, MEMBER(A)
HON'BLE SHRI SHANKAR RAJU, MEMBER(J)

Shri Tukaram Narayan Rahate
Circle Secretary,
National Union of Postal Employees,
(Postal), Postmen and Group 'D'
Maharashtra Circle and 39 Urs.

... Applicants in UA No.
847/1999

By Advocate Shri S.P.Kulkarni

V/s.

Union of India
Through:

1. Director General,
Department of Posts, Secretary,
Department of Posts, Dak Bhavan,
New Delhi - 110 001.
2. Chief Postmaster General,
Maharashtra Circle, Fort,
Old G.P.O. Building,
Mumbai - 400 001.
3. Postmaster General(M.R.),
Office of the C.P.M.G.
Fort, Old G.P.O. Building,
Mumbai - 400 001.
4. Senior Superintendent of Post Offices,
North West Division, Dadar,
Mumbai - 400 014.
5. Senior Superintendent of Post Offices,
North West Division, Borivali,
Mumbai - 400 092.
6. Senior Superintendent of Post Offices,
North West Division, Azadnagar P.O.,
Mumbai - 400 054.
7. Sub.Postmaster,
Mandvi Head Post Office,
Mumbai - 400 003.
8. Senior Postmaster General,
Girgaon Head Post Office,
Mumbai - 400 004.
9. Senior Superintendent of Post Offices,
West Division,
Dadar, Mumbai - 400 014.

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10. Senior Superintendent of Post Offices,
North East Division,
Vikhroli (I.G.M.),
Mumbai - 400 083.

11. Director,
Mumbai G.P.O. Building,
Fort, Mumbai - 400 001.

... Respondents in
UA No.847/1999

By Advocate Shri V.S.Masurkar

1. National Union of Postal Employees
Postman and Group 'D', Maharashtra Circle,
represented by its Circle Secretary,
Shri I.N.Rahate, Iank Road, Post Office,
Mumbai - 400 033.

2. Shri D.S.Iswarkar,
Postman, Chinchbunder Post Office,
Mumbai 400 009 residing at Vinayak
Sahakar Grian Nirman Sanstha, Nava Agripada,
Santacruz(E), Mumbai - 400 055.

3. Shri D.E.Shipurkar,
Postman, Mumbai G.P.O., Mumbai
400 001, residing at Room No.4,
Navnath Niwas Chawl, Sainath Nagar,
Louis Wadi, Thane(W) - 400 604.

... Applicants in UA No.
912/99.

By Advocate Shri K.R.Yelwe

v/s.

1. Union of India,
through the Secretary to the
Government of India,
Ministry of Communications,
Department of Post,
(Pay Commission Cell),
Dak Bhavan, Sansad Marg,
New Delhi - 110 001.

2. The Director General of Posts,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi - 110 001.

3. The Chief Post Master General,
Maharashtra Circle, Old G.P.O.Bldg.,
Mumbai - 400 001.

4. The Director (Establishment),
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi - 110 001.

... Respondents

By Advocate Shri V.S.Masurkar

Shri Ashok Sambhaji Pawar,
Circle Secretary, and 131 Urs

... Applicants in OA No.
55/2000.

By Advocate Shri S.P. Inamdar

V/s.

1. Union of India through
The Direct General/Secretary
Department of Post,
Ministry of Communication,
Dak Bhavan, New Delhi - 110 001.
2. The Chief Post Master General,
Maharashtra Circle,
Mumbai - 400 001.
3. The Post Master General,
Aurangabad Region,
Aurangabad
4. The Post Master General,
Goa Region,
Panaji-Goa.
5. The Director,
Mumbai General Post Office,
Mumbai - 400 001.
6. The Sr. Supdt. of Post Offices,
Mumbai City South Division,
Mumbai - 400 001.
7. The Chief Post Master,
Kalbadevi Head Post Office,
Kalbadevi, Mumbai - 400 002.
8. The Senior Superintendent of Post Offices,
Kolhapur Division,
Kolhapur - 416 003.
9. The Supdt. of Post Offices,
Sindhudurga Division,
Malwan - 416 606.
10. The Supdt. of Post Offices,
Navi Mumbai Division,
Panvel - 410 206
11. The Sr. Supdt. of Post Offices,
Mumbai City West Division,
Dadar, Mumbai - 400 014.
12. The Sr. Supdt. of Post Offices,
Nashik Division,
Nashik - 422 001

13. The Supdt. of Post Offices,
Jalgaon Division,
Jalgaon - 425 001.
14. The Chief Post Master,
Girgaon Head Post Office,
Girgaon, Mumbai - 400 004.
15. The Sr.Supdt. of Post Offices,
Thane Central Division,
Thane - 400 601.
16. The Supdt. of Post Offices,
Pune City West Division,
Pune.
17. The Sr.Supdt. of Post Offices,
Mumbai City East Division,
Dadar, Mumbai - 400 014.
18. The Post Master General,
Pune Region, Pune.
Pune - 411 001.

... Respondents in UA
No.55/2000.

By Advocate Shri V.S.Masurkar

(ORAL)(ORDER)

Per Smt.Shanta Shastri, Member(A)

All the three UAs No.84/99, 9/2/99 and 55/2000 involve common issue of law and the facts are same.

2. However, the advocates are in UA.84/1999 Shri S.P.Kulkarni, in UA 9/2/99 Shri K.R.Yelwe and in UA 55/2000 Shri S.P.Inamdar for the applicant. Shri V.S.Masurkar appears for the respondents in all the three cases. All the three UAs are therefore being disposed of by a common order.

3. The Postmen and Mail guards were having the payscale of Rs.825-1200 prior to the recommendations of the Vth Pay Commission. Thereafter, they were granted the revised scale of Rs.2750-4400 with effect from 1/1/1996 as per the recommendations of the Vth Pay Commission. Their pay was fixed in the replacement scale after granting them two advance increments as per the revised payscale. In the meantime, their demand for payscale of

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Rs.3050-4590 at par with the Constable was pending and was under consideration. The said scale was however granted from 10/10/1997 with a stipulation that no two advance increments shall be admissible while fixing the pay in the aforesaid scale. Accordingly, their pay was refixed. Thereafter, by the impugned order dated 30.8.99//9/99, the respondents have ordered recovery of overpayment due to wrong fixation of pay in respect of Postmen/Mail Guards w.e.f. 1/1/1996.

4. While fixing their pay in the revised scale of Rs.3050-4590, an undertaking was taken from all the Postmen and Mail Guards to the effect that any over payment made due to wrong pay fixation would be liable to be recovered from them.

5. Being aggrieved by the impugned orders, the applicants have approached this Tribunal by way of the three UAs. UA 9/2/1999 is filed by National Union of Postal Employees and two others.

6. The learned counsel for the respondents has brought to our notice that identical matter was agitated before the Bangalore Bench of the Tribunal in UA No.528/99. The same was dismissed. However, an appeal has been filed against the same in the High Court of Karnataka by way of Writ Petition NO.24919-24920 of 2001. The High Court of Karnataka has passed the order to the following effect:-

That the further recovery of the amount from the pay and allowances is hereby stayed for a period of two months. This period of two months was extended by order dated 1/1/2002 by the High Court until further orders from the Court. Copies of both these orders by High Court of Karnataka and Bangalore have been produced and the same is kept on record.

7. The respondents have also produced copies of judgement of Guwahati Bench as well as Chandigarh Bench which has taken the same view as of Bangalore Bench. It has been further brought to our notice by Shri K.R.Yelwe, learned counsel for the applicant in UA-9/2/99 that the Postmen were agitating for parity in payscale with the Constables in the Central Police Organisation. The High Court of Delhi has granted payscale of Rs.3050-4590 to the Constables in the Central Police Organisation from 1/1/1996. He further states that the parity of postmen with the Constables has been accepted by the Government. However, this order of the High Court again has been challenged in SLP in Supreme Court.

8. In the facts and circumstances of the case, we do not find it advisable to adjudicate on this matter at this stage as the issue before the Karnataka High Court is identical and is concerning the Postmen and Mail Guards. It would therefore be better to await the decision of the High Court in this matter.

We therefore are inclined to dispose of the UA subject to the decision of the High Court of Karnataka in this matter.

9. The learned counsel for applicant in UA No.84/99 raised the issue of relit regarding recovery. In this matter he drew our attention to a letter dated 30/1/99 issued by the Chief Post Master General, Maharashtra Circle. In para-3 of this letter, it relates to the fixation of pay which is stated as follows:-

3. The above issue has been considered in consultation of the Circle IFA and I am directed by the Chief PMG to convey that while fixing the pay in the revised scale on 10/10/1997 with reference to the existing scale of Rs.2750-4400 the fixation should be done by taking into account the advance increments granted. Once the

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pay is fixed in the revised scale of Rs.3050-4590 with effect from 10.10.97, no additional advance increment can be given and also no recovery of two advance increments from 1.1.1996 to 9.10.97 in the scale of Rs.2750-4400 to be made.

10. Thus it has been advised that no additional advance increments can be given once the pay is fixed in the revised scale of Rs.3050-4590 w.e.f. 10/10/90. It has been further stated that there shall be no recovery of two advance increments already granted while fixing the pay in the grade of Rs.2750-4400.

11. Our attention has also been drawn to a note from the Ministry of Finance (Expenditure) implementation cell dated 12/4/1999 (K-1) page - 76 in UA-84/99.

13. In this note, it has been clarified that the intention of two advance increments in the scale of Rs.2750-4400 for the Postman is that the Postmen should have initial start of Rs.2890 and not that two increments be allowed at each stage. For the purpose of pay fixation, pay is required to be fixed in the scale of Rs.3050-4590 with reference to pay drawn in the scale of Rs.2750-4400 in terms of FR 25 read with FR 22(1)(a)(1). As such no advance increments in addition are to be allowed in upgraded scale of 3050-4590. On reading these two references brought to our notice, in our considered view what is really laid down is that while fixing the pay in the scale of Rs.3050-4590 no advance increments are to be granted. If some Postmen/Mail guards have been granted these increments, then they would be liable to recovery.

12. In the light of the discussion, in our considered view, as the Hon'ble High Court of Karnataka at Bangalore has already

stayed the recovery until further orders and the matter is pending in the High Court, it will be but appropriate that the respondents do not effect any recovery in the case of these applicants in the present case also as they are all identically placed.

13. We accordingly dispose of all the three U.A.s with a direction that they shall be subject to the decision of the High Court of Karnataka at Bangalore in Writ Petition No.24919-24930/2001. In the meantime, respondents shall not make any recoveries from the applicants in these UAs. If after the decision of the High Court of Karnataka, any recovery becomes due, then the same shall be recovered from the applicants. In case of those who might have retired, the recovery shall be liable to be made against their Dearness Relief in accordance with law. No costs.

(SHANKAR RAJU)
MEMBER(J)

(SMT. SHANIA SHASIRY)
MEMBER(A)

abp

— JUDGE dt 14/6/12
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