

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 294/2001

Hon'ble ~~Vice Chairman~~ / Member (J) / Member (A)

may kindly see the above Judgment for
approval / signature.

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~~V.C. / Member (J) / Member (A) (K/S)~~

Hon'ble Vice Chairman

Hon'ble Member (J) I agree *29/11/01*

Hon'ble Member (A) (K/S)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.294/2001

Date of Decision: 31.01.2001

Shri Raghunath Totaram Nikumbh.

Applicant(s)

Shri J.N. Tanpure.

Advocate for Applicants

Versus

Union of India & 2 Ors.

Respondents

Smt. H.P. Shah

Advocate for Respondents

CORAM: HON'BLE SHRI. S.L. JAIN. ... MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. ... MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library ✓

Shanta

(SMT. SHANTA SHASTRY)
MEMBER (A)

Gajan

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 294/2001

THIS 31st DAY OF JANUARY, 2002

CORAM: HON'BLE SHRI S.L. JAIN. .. MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

Shri Raghunath Totaram Nikumbh,
Short Duty Pensioner Pune City
Head Post Office, R/at Sy.No.66,
Sant Tukaram nagar, New Sangvi,
Pune-411 0207. ... Applicant

By Advocate Shri J.N. Tanpure.

Versus

1. Union of India through
Assistant Director General,
government of India,
Ministry of Communication,
Department of Posts, Dak Bhavan,
Sansad Marg,
New Delhi-110 001.
2. The Chief Post Master General,
Maharashtra Circle,
Mumbai-400 001.
3. The Senior Supdt. of Post Offices,
Pune city, (West Division),
Pune-411 030. ... Respondents

By Advocate Smt. H.P. Shah.

O R D E R

Hon'ble Smt. Shanta Shastry. Member (A)

The applicant had retired as lower selection grade Sub-Postmaster on 28.02.1988. Thereafter, he was reappointed as short duty postal assistant (pensioner) in October, 1989 and he was accordingly working at Pune city Head post office. Initially he was paid Rs.5.30P per hour since 1992. The respondents were also separately appointing college students, who were paid

Rs.9.22 per hour for the same kind of job. The applicant, therefore, represented on 17.12.99 to the Hon'ble Minister for Communication for revision/enhancement of the hourly rate for pensioners engaged as short duty staff. The applicant was informed vide letter dated 27.3.2000 that his matter has been referred to the directorate. Again on 12.10.2000 the applicant wrote to Respondent No.2 to pay him wages at the rate of Rs.16.40P per hour from 01.01.1996.

2. The applicant submits that the minimum pay scale of postal assistant cadre is Rs.4000/- basic with effect from 01.01.1996 as per the recommendations of the 5th Pay Commission. The applicant is working as short duty postal assistant. The duties are the same as those of the full time postal assistants. The basic pay of the postal assistant works out to Rs.133/- per day, i.e. about Rs.16.40P per hour and therefore, on the principles of equal pay for equal work, the applicant is entitled to Rs.16.40P per hour, otherwise it would be discriminatory. The applicant had sent further reminder on 01.3.2001 to Respondent No.3. The respondents have now issued a letter dated 04.5.2000 communicating the decision that the hourly rates in respect of pensioners engaged as short duty staff have been revised and fixed at Rs.16.40P per hour with immediate effect. The applicant wants that it should be with effect from 01.01.1996. He has therefore, prayed for a declaration that he is entitled to Rs.16.40P per hour as hourly rate

for pensioners engaged as short duty staff from 01.01.1996 instead of from 04.5.2000 with a further direction to the respondents to pay the arrears thereof along with 18% interest.

3. The respondents have filed their reply. they pointed out that it is not possible to pay the wages at the rate of Rs.16.40 per hour to the applicant with effect from 01.01.96 as these rates have been revised with effect from 04.5.2000. The applicant was getting wages at the rate of Rs.5.30P per hour. The college students/ approved candidates were getting Rs.9.22 per hour. It was clarified vide letter dated 25.3.88 of the directorate that the fixation of rates on hourly basis for the retired pensioners is on the basis of the minimum of pay scale of postal assistant i.e. Rs. 975-1660, but excluding the element of DA, HRA, CCA along with their pension payment. Whereas, the rates for approved candidates/ college students are fixed on the basis of the minimum scale of the grade of postal assistant and includes the element of HRA, DA and CCA. Therefore, the hourly rates are different in respect of pensioners and the approved candidates. Further, it has been pointed out that while the hourly rates have been revised to Rs.16.40P with effect from 04.5.2000 in respect of the pensioners, the hourly rate of wages in respect of the approved candidates/college students remains as it was, i.e. Rs.9.22P per hour since 01.7.1992. The respondents also submit that they had

also given a suitable reply to the applicant on 27.3.2000 in response to his representation addressed to the Hon'ble Minister for Communication. As they had not received any instructions or guidelines from the Director General of Posts, no further reply was given to the applicant.

4. The applicant has further contended that since the 5th Pay Commission recommendations have been accepted and implemented with effect from 01.01.1996, the date of revision of hourly rates i.e.. Rs.04.5.2000 is arbitrary and it has no nexus. Since the hourly rates have been fixed on the basis of the minimum of the pay scale of postal assistant, the pay scales of the postal assistant having been revised with effect from 01.01.1996, the revised hourly rate of Rs.16.40P per hour ought to be granted from 01.01.1996. The applicant has also stated that as per DOP&T OM dated 02.7.99 clarification is issued that dearness relief on pension is admissible.

5. We have heard the learned counsel for both the parties. It is very clear that the applicant's prayer for revision of the hourly rate of wages has already been granted with effect from 04.5.2000. Now what the applicant wants is retrospective effect from 01.01.1996 i.e. from which date the recommendations of the 5th Pay Commission have been implemented and pay scales have been revised in respect of civil servants. It is seen

that these hourly rates of wages are fixed at the minimum of the pay scale of the postal assistants. Naturally, therefore, when the pay scale of the postal assistant was revised with effect from 01.01.1996 the hourly rates of wages also needed to be revised accordingly. Rightly, therefore, it would have been appropriate to revise the hourly rates from 01.01.1996. Having conceded that the applicant is entitled to the revision of hourly rates based on the revised pay scale recommended by the 5th Pay Commission, in our considered view, the relief ought to have been granted from 01.01.1996. However, the applicant has approached this Tribunal only on 10.4.2001 i.e. belatedly. The applicant had started representing only in the year 1999. In view of this, we direct the respondents to grant revised hourly rate of wages with effect from 17.12.1999^h to the applicant i.e. ^{from} one year prior to the date of ~~the representation~~ ^{the representation} ~~the filing of the OA~~. However, we do not order any interest to be paid on the arrears.

6. In the result, the OA is allowed partly. No costs.

Shanta I
(SMT. SHANTA SHASTRY)
MEMBER (A)

S. Jain
(S.L. JAIN)
MEMBER (J)

Gajan

31/1/02
order/Judgement despatched
to Applicant/Respondent (s)
on 14/2/02

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