

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

DATED THIS THE 11TH DECEMBER 1986

Present

The Hon'ble Shri Ch. Ramakrishna Rao : Member (JM)  
The Hon'ble Shri L.H.A. Rego : Member (AM)

Application No.1445 of 1986(F)

Shri M.K. Patwari,  
Assistant Post Master (Accounts),  
Gulbarga Head Post Office,  
Gulbarga-585101. .. Applicant

The Director General, Posts,  
New Delhi. .. Respondents.

(Shri M. Vasudeva Rao, Advocate)

This application has come up for hearing before  
this Tribunal today, the Hon'ble Shri L.H.A. Rego, Member (AM),  
made the following:

ORDER

This is an application under Section 19 of the  
Administrative Tribunals Act, 1985 wherein the applicant  
prays that he may be given incremental benefit in the  
fixation of his pay under Fundamental Rules (FR) 22C on  
his promotion from the grade of Accountant to that of Lower  
Selection Grade (LSG) Accountant.

2. The applicant was working as Accountant in the  
Postal Department in the pay scale of Rs.260-8-300-EB-8-340-10-  
360-420-EB-12-480 plus Special Pay of Rs.45/- per mensem. The  
pay scale of the posts of PO&RMS/DTO/CTO Accountants and  
Assistant Accountants came to be revised as Rs.380-12-440-EB-  
15-560-EB-20-620 without Special Pay, with effect from 1.11.1978  
according to the orders dated 10.11.1978 (Orders for short)  
issued by the Director General Posts and Telegraphs, New Delhi.

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(DGP&T) the contents of which are reproduced below:

"Copy of letter No.31-31/74-PE-I dated 10.11.1978 from the DGP&T New Delhi and which is conveyed by the PMG, Bangalore under Encl No. ESA/1-16/RP/R1gs dated 17.11.1978 to all SSPs/SPs is reproduced.

Sub:- Revision of pay scale of PO & RMS/DTO/CTO Accountants/Asst. Accountants.

...

The undersigned is directed to say that the question of revising the pay scale of PO & RMS/DTO/CTO Accountants/Asst. Accountants has been under consideration for some time past. The President is pleased to decide that the pay scale of PO & RMS/DTO/CTO Accountants/Asst. Accountants shall be revised as shown below:-

	<u>Existing pay scale</u>	<u>Revised pay scale</u>
1. PO & RMS/DTO/CTO Accountants.	Rs.260-8-300-EB-8- 340-10-360-12-420- EB-12-480 plus Spl. pay of Rs.45/- p.m.	Rs.380-12-440-EB- 15-560-EB-20-620 without special pay.
2. -de-	-de-	-de-
Assist. Accountants	plus spl. pay of Rs.35/- P.M.	
2.	With the revision of the pay scale as above, a separate cadre of PO & RMS/DTO/CTO Accountants in the pay scale of Rs.380-620 has been formed.	
3.	The pay of the existing incumbents shall be fixed on the analogy of FR 22(a)(ii) read with Audit instructions below FR.22 treating the special pay, now being drawn, as part of basic pay. The pay of the future appointees to these posts from clerical cadre shall be fixed under FR.22-C.	
4.	The existing incumbents shall be provided with an option under FR.23, which shall be exercised within three months from the date of issue of these orders. If no option is exercised within the stipulated date, the officials shall be deemed to have automatically elected the new pay scale with effect from 1.11.1978 and his pay will be fixed as indicated in para (3) above.	
5.	The President is further pleased to decide that the pay of PO & RMS/DTO/CTO Accountants in the revised pay scale of Rs.380-620 on their appointment to the post of LSG Accountants shall be fixed on the analogy of FR.22(a)(ii) treating the appointments not involving higher duties and responsibilities.	
6.	These orders will take effect from 1.11.1978. The expenditure shall be charged to the concerned head of the relevant abstract and shall be met from the sanctioned grant.	
7.	This issues with the concurrence of P&T Finance vide their Dy.No.7008-FA-I/78 dated 10th Nov. 1978".	

..../-

3. The above orders indicate the option given to the incumbents in regard to ~~choosing~~ the scale of pay and the manner in which the pay would be fixed in the revised scale of pay, as also on appointment to the post of LSG Accountant.

4. The applicant is said to have opted for the pay scale of Rs.380-620 and his pay in that scale was fixed under FR 22(a)(ii) in accordance with para 3 of the Orders.

5. He was promoted as LSG Accountant in September 1979 in the pay scale of Rs.425-640 and his pay in that post was fixed again under FR 22(a)(ii), according to para 5 of the Orders, treating the appointment as not involving higher duties and responsibilities. The applicant contends that his pay should have been fixed under FR 22C, giving him incremental benefit as his appointment to the post of LSG Accountant entailed duties and responsibilities of greater importance than those attached to the post previously held by him.

6. Under his letter dated 24.2.1981 the DGP&T informed, that the President had decided, that the cadre of PO and RMS/DTO/CTO Accountants, in the aforementioned pay scale of Rs.380-620, be declared as defunct and that the incumbents in these posts be brought on the pay scale of Rs.260-480 with Special Pay of Rs.45 per mensem. The incumbents in the pay scale of Rs.380-620 were asked to exercise their option, on or before 31.5.1981, under FR 23, as to whether they would wish to retain the pay scale or not, failing which, they were given to understand, that it would be deemed, they had elected for the pay scale of Rs.260-480 plus Special Pay. The contents of the above letter dated 24.2.1981 are extracted below to help ascertain its implications at a glance:

"Copy of letter No.31-56/79-PE.I dated 24.02.1981 received from the D.G.P & T New Delhi-110001.

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Sub: Revision of Pay scale of PO & RMS/DTO/CTO Accountant/Asst. Accountant.

..

Attention is invited to this office Memo

.../-

No. 31-31/74-PE-I dated 10.11.78 wherein PO & RMS/DTO/CTO Accountants including Asst. Accountants were given a revised pay scale of Rs.380-620 in lieu of the time scale of pay of Rs.260-480 plus S.P. with the revision of pay scale a separate cadre of PO & RMS/DTO/CTO Acct. was formed.

2. The President is now pleased to decide that the cadre of PO & RMS/DTO/CTO Accountants in the pay scale of Rs.380-620 be declared as defunct and the incumbents of these posts be brought on the scale of Rs.260-480 plus a uniform rate of special pay of Rs.45/- p.m. The existing incumbents in the pay scale of Rs.380-620 have the option to retain the defunct scale under FR 23 and will not be eligible for promotion to any higher post in the General line. The option is exercised within the stipulated date, the official shall be deemed to have automatically elected the pay scale of Rs.260-480 plus special pay and their pay will be fixed as under. The individuals who opt for the pay scale with special pay now introduced will be eligible for promotion to higher posts in the normal channel of promotion as were available before the issue of this O.M.31-31/73-PE-I dated 10.11.1978.

3. The pay of the existing incumbents on the pay scale of Rs.380-620 may be fixed in the pay scale of Rs.260-480 at a stage as would have been arrived at had they initially continued in the pay scale of Rs.260-480. To the stage so arrived at, a special pay of Rs.45/- p.m. only may be allowed. Where the pay so fixed plus the special pay of Rs.45/- falls short of the pay drawn in the scale of Rs.380-620 the difference may be allowed as personal pay to be absorbed in future increases of pay.

4. The special pay of Rs.45/- p.m. referred to in para 2 is in lieu of higher scale of pay.

5. The pay of PO & RMS/DTO/CTO Accountants in the prescribed scale of Rs.260-480 plus special pay of Rs.45/- on promotion to LSG may be fixed under FR 22C.

6. This issues with the concurrence of P&T Finance Advice-I vide their U.O.No.607/FAI dated 2.2.81".

7. According to the above letter dated 24.2.1981, if the incumbents opted to retain the defunct pay scale of Rs.380-620 they would be ineligible for promotion in the general line, while the others would be eligible for promotion in the normal channel as before.

8. The main prayer of the applicant is, that he be given incremental benefit in his fixation of pay, under FR-22C, on his

appointment to the post of LSG Accountant in September 1979, as that post carries duties and responsibilities of greater importance as compared to the post of Accountant held by him earlier. FR 22-C reads as under:

"FR. 22-C. Notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay nationally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued:

Provided that the provisions of this rule shall not apply where a Government servant holding a Class I post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to a higher post which is also a Class I post and carries a time-scale of pay with the minimum more than Rs.1,500:

Provided further that the provisions of sub-rule (2) of Rule 31 shall not be applicable in any case where the initial pay is fixed under this rule:

Provided also that where a Government servant is, immediately before his promotion or appointment to a higher post, drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time scale of the higher post shall be fixed at the stage next above the pay nationally arrived at by increasing his pay in respect of the lower post by an amount equal to the last increment in the time-scale of the lower post:

Provided that if a Government servant either-

(1) has previously held substantively, or officiated in-

(i) the same post, or

(ii) a permanent or temporary post on the same time-scale, or

(iii) a permanent post other than a tenure post, or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time-scale; or

(2) is appointed substantively to a tenure

post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated;

then previse to F.R. 22 shall apply in the matter of the initial fixation of pay and counting of previous service for increment.

Explanation- In this rule, the expression "Class I" has the meaning assigned to it under the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

9. A plain reading of FR 22-C reveals, that regardless of the nature of tenure of the post held by an incumbent, if he is promoted or appointed to a post (again regardless of its tenure) carrying duties and responsibilities of greater importance than those attached to the post held by him earlier, he would be eligible for incremental benefit in the fixation of his pay in the latter post. The respondents have stated in para 3 (a) of their statement of objections, that the applicant was promoted to the post of LSG Accountant in the month of September 1979. It is natural to infer that the post of promotion invariably carries duties and responsibilities of greater importance than the post from which the incumbent is promoted. In the course of the hearing we came to know, that a LSG Accountant is required to supervise work of a larger complement of staff under him than in the case of an Accountant, the nature of accounts work involved is more complex and the workload too is heavier as compared to the post of Accountant. If that be so, we see no reason as to why the applicant should be denied the benefit of FR. 22C on his promotion to the post of LSG Accountant. Besides, the pay scale of Rs.425-640 of the post of LSG Accountant, is not identical to the pay scale of the post of Accountant (both revised and unrevised) as both the initial as well as the terminal stages are distinctly higher.

10. We are, therefore, of the view, that the applicant is entitled to the benefit of FR 22C, in the fixation of his pay, from the date of his appointment to the post of LSG Accountant.

11. In the result, we allow the application with no orders as to costs.

*Ch. Ramakrishna Rao*

(Ch. Ramakrishna Rao)  
Member (JM)  
11-12-1986

*L.H.A. Rego*

(L.H.A. Rego) 11-12-86  
Member (AM)  
11-12-1986

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