

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 819/92

Transfer Application No:

DATE OF DECISION: 16-3-95

V. P. Harinkhede

Petitioner

Shri. D.B. Walthare

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri. A.B. Chaudhury

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A. 819/92

V. P. Harinkhede

.. Applicant

Vs.

Union of India & Ors.

.. Respondents

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

Appearances :

1. Shri.D.S.Walthare, for the applicant.
2. Shri.A.B.Chaudhury, for the respondents

JUDGMENT

DATED : 16-3-95

{ Per Shri M.R.Kolhatkar, Member (A) }

The applicant was appointed as Extra Departmental Sub Post Master, Yekodi with effect from 18/09/1980. It is stated that initially the applicant was being paid the maximum allowance at the rate of Rs.199 and thereafter he was drawing maximum allowance at Rs.360 on the post of E.D.S.P.M in the year 1985. By Memo dated 16/10/1985, at annexure 3, the E.D.S.P.M, Yekodi was downgraded subject to the condition that even after downgradation the existing allowance will be paid. Later on, in 1986, the allowance payable to the E.D.S.P.M and E.D.B.P.M were revised and the allowance of E.D.S.P.M was fixed at Rs.620. Although the applicant was appointed as E.D.S.P.M, he was not paid the maximum allowance and therefore, the applicant made a representation on 4/11/1991 in which he has stated that the workload of the Branch Post office has been increased and the A.S.P. Gondia has also assessed the workload to 120 points in the year 1988-89 which is more than 80 points as the maximum prescribed for the Branch post office and he should be paid more allowance for the work exceeding 80 points.

Later on, he sent lawyer's notice to which the respondents sent a reply on 20/01/1992 as below :

"With reference to above cited letter, you are hereby informed that Yekodi EUSO was converted into EUBO with effect from 30/10/1985. And the designation was also given as EUBPM instead of EUSPM. Even then your basic allowance is not reduced. And you are getting basic allowance of Rs.440/- with effect from 1/1/1987, which is higher in the existing scale of allowances.

On perusal of Rules and regulations it is noticed that you are getting the correct basic allowance. Therefore, you are hereby informed that your notice sent through Advocate is not proper."

2. The applicant challenges this letter dated 20/01/1992 and claims payment of maximum allowance of Rs.620 per month on the ground that he was initially appointed as EUSPM, hence he cannot be denied the maximum allowance. It is further contended that many E.U.S.P.Ms of Nagpur Mofussil Dn., though their work is less than 5 hours, are being paid at Rs.620/- P.M and the same is denied to the applicant though the work load of the applicant is more than 5 hours, which is in violation of the principles of equal pay for equal work. Thirdly, it is contended that the denial of maximum allowance applicable to EUSPM without a show-cause notice is violative of principles of natural justice. Attention is also invited to the recommendation of inspection report of A.S.P for converting Yekodi Branch Post Office into regular Departmental Sub-post office.

3. Respondents have opposed the application of the applicant. Firstly it is contended that the application is barred by limitation. In effect, the applicant is challenging the order dated 16/10/85 by which the Yekodi EUPD was downgraded. The applicant accepted the allowance paid to him after downgradation and did not protest till the lawyer's notice. It is denied that letter dated 4.11.1991 was sent by the applicant what is impugned in the reply to the lawyer's notice clarifying the position which set out the implications of the downgradation and does not give him a fresh cause

4 of action. Even on merits it is contended that the applicant has

no case. The appointment order of the applicant dated 21.4.82 at annexure 2, to the application, shows that his employment was in the nature of a contract liable to termination by notice in writing and that is governed by the P&T Extra Departmental Agents (Conduct and Service) Rules 1964. It is well settled that Extra Departmental agents are not full time government employee. If the applicant is aggrieved by the order of downgradation, it was open to him to resign the position. It is also contended that the A.S.P.'s report is an internal document which is for the Department to consider. Regarding downgradation, this is a policy matter of the Government and as a result of review, Yekodi EDSO was downgraded into EDBO and even after the downgradation, the allowance last drawn by the applicant as EUSPM was protected on a purely personal basis. In this connection, our attention is invited to department's letter dated 29/1/86 at Annexure 'R2' and letter dated 3/2/87, at Annexure 'R3'. The comparison drawn by the applicant with sub-post offices in Nagpur Mofussil Division is stated to be inapplicable nor the principle of equal pay for equal work attracted in the instant case.

4. On perusal of the documents and on consideration of the arguments, we have no doubt that the fixation of allowance of the applicant has been done in accordance with rules. ~~What~~ the applicant is claiming is the maximum allowance in respect of Sub Post Masters who are working in sub-post offices. The applicant is no longer in Sub-post office but is working in E.D.S.P.O. The maximum allowance drawn by him as E.D.S.P.O at the time of downgradation has been appropriately protected. Since the downgradation is in accordance with the policy decision of the Government which applies to similarly placed locations equally, the Department is not required to give a notice to the individual Extra-departmental Sub-postmasters and neither ^{is} the principle of equal pay for equal work attracted in this case.

5. We therefore consider that there is no merit in the O.A, which is accordingly dismissed. There would be no orders as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

J*