

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 872/94

Date of Decision: 24.6.1999

Shri A. Janardana Holla

Applicant.

Shri B. Dattamurthy.

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri S.S. Karkera for

Shri P.M. Pradhan.

Advocate for
Respondent(s)

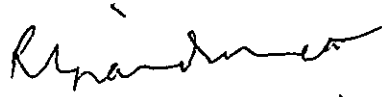
CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Baweja, Member (A)

(1) To be referred to the Reporter or not? ~~~~

(2) Whether it needs to be circulated to
other Benches of the Tribunal? ~~~~


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No.872/94

Thursday the 24th day of June 1999

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member(A)

A. Janardana Holla
S/o A. Narnappayya
Dy. Director (Dely)
GPO Bombay.

... Applicant.

By Advocate Shri B. Dattamurthy.

V/s.

1. Union of India
Ministry of Communication
Represented by
Secretary,
Dept. of Posts
Dak Bhavan,
Sansad Marg,
New Delhi.
2. Chief Post Master General
Karnataka Circle
Bangalore.
3. Dy. Director Accounts (Postal)
Karnataka Circle
GPO Bldg.,
Bangalore.
4. Director
Bombay GPO,
Bombay.

... Respondents.

By Advocate Shri S.S. Karkera for Shri P.M. Pradhan.

ORDER (ORAL)

Per Shri Justice R.G.Vaidyanatha, Vice Chairman

This is an application filed by the
applicant under Section 19 of the Administrative
Tribunals Act 1985. The respondents have filed reply.
We have heard the learned counsel for both sides.

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2. Though there are many allegations in the O.A. and many prayers, at the time of arguments, the learned counsel for the applicant pressed only one relief namely proper fixation of pay ~~of the~~ applicant on his promotion to grade 'B' post. In view of this limited prayer which was pressed at the time of argument, we are referring to few facts which are necessary for the case.

3. The applicant was working as Assistant Supdt. of Post Offices, Mangalore North Sub Division, Mangalore. After taking his willingness he was posted as Higher Selection Grade I Post Master on Adhoc basis with effect from 30.1.1993. Subsequently in June 1993 the applicant was promoted as Group 'B' officer on local arrangement basis. Then subsequently he was ~~promoted on~~ regularly selected and promoted as Group 'B' officer and posted to Bombay in October 1993. The department fixed the pay of the applicant taking into consideration the pay drawn in the lower post namely HSG Grade I. Subsequently the department found that there was some mistake in fixing the pay of the applicant in Group 'B' post and therefore issued a letter dated 4.3.1994 (Annexure A 21) which is at page 44 of the paper book. In this letter the department has mentioned that applicant's pay in Group 'B' post has been wrongly fixed at Rs. 2600/- but it should be Rs. 2450/- . Accordingly a direction was given that the pay drawn by the applicant should

be recovered. The applicant is challenging the correctness and legality of this direction, among other reliefs prayed in the O.A. According to the applicant, he was working as HSG Grade I officer and subsequently promoted to Group 'B' post first on officiating basis and then on regular basis, he is entitled to fixation of pay in Group 'B' post on the basis of pay drawn by him in HSG Grade I.

4. The respondent's case is that applicant's posting as HSG Grade I was not a regular promotion. It was only a temporary arrangement and it was not cleared by regular DPC and the applicant cannot get the benefit of pay drawn by him in HSG Grade I for getting the benefit of fixation of pay in Group 'B' post. However the case of the respondents is that applicant's pay as Assistant Supdt. of Post Offices should be the basis for fixating the pay of the applicant in Group 'B' post and this has been correctly done in the order dated 4.3.1994 which is at Annexure 21 page 44 of the paper book.

5. In view of the rival contentions, the short point for consideration is whether the applicant is entitled to the benefit of pay drawn by him in HSG Grade I for the purpose of fixing the pay in Group 'B' post under FR 22(1)(a)?

6. The learned counsel for the respondents contended that since the applicant's promotion to HSG Grade I was not a regular promotion and was not cleared by the D.P.C. and it was purely an adhoc arrangement, the applicant cannot get the benefit of pay drawn in that post for fixing the pay in the next promotion grade. Though the argument has some merit and requires to be considered, we find that the matter is concluded by two decisions of the Tribunal namely one Division Bench decision and another Full Bench decision and therefore we cannot go into this question on first principles.'

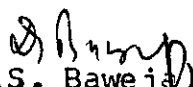
7. The Full Bench of this Tribunal had considered a similar question in the case of Bajrang Sitaram Wanjale and others V/s. Union of India and others reported in 1994(2) SLJ 252. That was a case of Tradesman Grade A who had been promoted to Master Craftsman. There was no further promotion. Subsequently the official who had been promoted as Master Craftsman was promoted as Chargeman Grade II on the basis of Tradesman Grade 'A' treating as feeder cadre. The question was whether pay in the post of Chargeman Grade II has to be fixed on the basis of actual pay drawn as Master Craftsman or on the Presumptive pay payable in the post of feeder cadre namely Tradesman Grade 'A'. After referring to FR 22(1)(a) and other materials Full Bench held that irrespective of feeder cadre for promotion the pay in the promotional post should be fixed on the

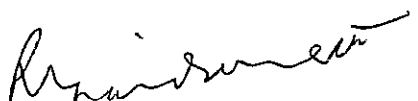
basis of pay drawn in the immediate lower post viz. ^{was} which official holding prior to promotion. If this rule is applied then the applicant is entitled to fixation of pay in Group 'B' post on the basis of pay drawn in HSG I post though his promotion to Group 'B' post was fixed on the basis of feeder cadre namely Assistant Supdt. of Post Offices.

Then we go to the another decision of the Division Bench of Hyderabad in the case of M.A. Rasheed Siddiqui V/s. Union of India and others (1994) 28 ATC 614. That was also a case where Assistant Supdt. of Post Offices was promoted as Deputy Postmaster on temporary and adhoc basis and subsequently promoted as Group 'B' post. The question was whether his pay in Group 'B' post should be fixed on the basis of pay in the feeder cadre namely Assistant Supet. of Post Offices or on the basis of his last post held by him as Deputy Postmaster. The Division Bench after referring to FR 22(1)(a) held that applicant's pay in the ^{group} grade should be decided on the basis of pay drawn as Deputy Postmaster.

In view of the above decisions, which are binding on us, we have to hold that the applicant in this case is entitled to pay fixation in group 'B' post on the basis of pay drawn in HSG I and not on the basis of pay in the feeder cadre namely in the grade of Assistant Supdt. of Post Offices. In view of this finding we cannot go into the question on first principle as argued by the learned counsel for the respondents.

8. In the result the O.A. is partly allowed. The order dated 4.3.1994 passed by the respondents fixing the pay of the applicant at Rs. 2450/- in Group 'B' post is quashed. The applicant is entitled to the fixation of pay in the Group 'B' post on the basis of actual pay drawn by him in HSG Grade I. In case any recovery has already been made as per the impugned order dated 4.3.1994, the amount will have to be refunded to the applicant. In the circumstances of the case there will be no order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

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