

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 677 /1995

Date of Decision: 2-8-1996

P.B.Bhandare

Petitioner/s

Shri A.G.Deshpande

Advocate for the
Petitioner/s

V/s.

Sr. Supdt. of Post Offices,

Aurangabad & Ors.

Respondent/s

Mr. S.S.Karkera for

Mr. P.M.Pradhan

Advocate for the
Respondent/s

CORAM:

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

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

M.R.Kolhatkar
(M.R.KOLHATKAR)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. 677 of 1995

Friday, this the 2nd day of August, 1996

CORAM: HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

Shri P.B.Bhandare,
LSG PA SBCO HPD
Aurangabad 431 001.

By Advocate Shri A.G.Deshpande

.. Applicant

-versus-

1. Sr. Supdt. of Post Offices,
Aurangabad 431 001.
2. Chief Postmaster General,
Bombay - 400 001.
3. Director General,
Department of Posts,
Dak Bhavan,
New Delhi - 110 001.
4. Secretary,
Ministry of Communications,
Sanchar Bhavan,
New Delhi.

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

.. Respondents

ORDER (ORAL)

(Per M.R.Kolhatkar, Member(A))

In this O.A. u/s. 19 of the A.T. Act the issue is in a very narrow compass. Dept. of Posts has issued an order dt. 26-7-1991 on the subject of "extension of Time Bound One Promotion Scheme to the staff working in Savings Bank Control Organisation," at page 18 of the O.A. The applicant was promoted to the cadre of LSG on 1-8-91 and his pay was fixed under FR 22-C (now called Rule 22 I(a)(1)) This letter states in para (11) that "All the existing LDCs/UDCs will be required to furnish, within one month their option under FR-23 according to which they may, if so like retain their old pay the existing scale of pay....etc." The applicant contends that this option under proviso to FR-23 is quite distinct from the option to be

exercised under FR-22-C. Vide note to decision No.19 under FR-22 reproduced at page 67 of Swamy's Compilation of FR-SR it is stated that "while implementing the scheme of 'One-Time Bound Promotion' effective from 17-12-1983, the officials who had completed 16 years of service as on 30-11-1983, were permitted to give option for getting their pay fixed in the higher scale after getting the next increment vide this Office Letter No.31-26/83-PE.I. dt. 21-3-84" Although this letter dt. 21-3-84 is not on record it is not disputed that one time bound promotion scheme extended to the Savings Bank Control Organisation is identical with the OTB scheme referred to in this letter and that the department is the same and in terms of this note the department was bound to make an endorsement in the orders of promotion asking the promoted employees to give option for getting their pay fixed in the higher scale after getting the next increment. From other instructions quoted by the applicant, it appears that the option is normally to be exercised within a month of the order.

2. The order of promotion is dt. 11-6-92 of which the extracts have been given by the applicant at Annexure A-2. But on perusal of the full order which was produced by counsel for respondents it is seen that there is no such endorsement regarding option to be exercised.

3. It is the grievance of the applicant that when the pay fixation came to be made, pay of one Shri P.G.Vaidya who is junior to him, (which is clear from the order of promotion dt. 11-6-92 inasmuch as applicant's name appears at Sr.No.43 and Vaidya's name appears at Sr.No.46) came to be fixed at a higher level as below :

M

<u>Date:</u>	<u>Shri P.B.Bhandare</u>	<u>Shri P.G.Vaidya</u>
1-3-1991	Rs.1600	Rs.1600
1-8-1991	Rs.1640	Rs.1600
1-8-1992	Rs.1680	1-3-92
1-8-1993	Rs.1720	1-3-93
		Rs.1760

4. This was done on the ground that Shri Vaidya has exercised his option to fix his pay as on 1-3-92 i.e. after accrual of his next increment and Shri Bhandare ^{the} applicant has not exercised his option. Thus the pay fixation of Vaidya who is/junior officer has resulted in his getting a higher pay than the applicant.

5. It has already been noted that the main reason why Shri Vaidya's pay came to be fixed at higher level was that he exercised option but Shri Bhandare did not exercise option. But if an employee exercises option there should have been an endorsement in the office order calling for options. It is clear that the department had not called the options and the circumstances under which Shri Vaidya gave an option without having been called upon to do so remained obscure. Thus it is clear that there was a failure on the part of the department to mention that employees concerned have to exercise option for pay fixation in terms of ^{recommendation} FR 22-C. It is not disputed that the other conditions of FR 22-C viz. employees belonging to the same pay scale, both before and after and that anomaly must arise by operation of Rule 22-C and not because of advance increment etc. are fulfilled in this case.

Inspite of this when the applicant represented giving reference to Govt. orders on two occasions

viz. 13-1-93 and 9-3-94, the Sr. Supdt. of Post Offices Aurangabad vide his letter dt. 11-10-95 has intimated that the case of the applicant is not identical with that of Shri Vaidya because of exercise of option by Shri Vaidya and non exercise of option by the applicant and on that ground the representation is rejected on 11-1-95 which is the impugned order.

6. In the light of the above discussion, it is clear that the impugned order cannot be sustained and the applicant must get the relief. In the circumstance O.A. is allowed. Respondents are directed to remove the anomaly in the pay scale of the applicant vis-a-vis the pay scale of Vaidya by stepping up pay of the applicant to the stage of Rs.1720/- w.e.f. 1-3-92 and grant all consequential benefits including arrears from the said date with interest @ 12%. Since the applicant stands retired his pension may also be ^{as per rules} recalculated and arrears if any paid to him with interest within three months from the date of receipt of the copy of this order. There would be no order as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

M