

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 563/97 AND 394/97

THIS THE 22ND DAY OF APRIL, 2002

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

O.A. NO. 563/97

1. D.R. More,
A.D.P.S. (Estt.)
Office of the Chief
Post Master General,
Mumbai-400 001,
2. M.J. Joshi
Welfare Officer,
Office of the Chief
Post Master General,
Mumbai-400 001.
3. B.D. Ghunake,
Dy. Director (Dely),
Bombay G.P.O.,
Mumbai-400 001. ... Applicants

By Advocate Shri S.P. Saxena

Versus

1. Union of India
through the Director General
of Posts, Dak Bhavan,
New Delhi-110 001.
2. The Chief Post Master General,
Maharashtra Circle,
Mumbai-400 001. ... Respondents

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

O.A. NO. 394/97

1. Mr. Anil V. Pathak,
Age 57 years, then Asst.
Superintendent R.M.S.
Maharashtra Circle, nowrking on
Deputation as Section Officer/
Court Officer,
Central Administrative Tribunal,
Mumbai Bench, Mumbai-400 001.
2. Mr. Shyam A. Deshpande,
age 52 years, then Asstt.

Superintendent R.M.S.,
Bombay Sorting and Central
Stg Divn. and now working as Court
Officer, Central Administrative
Tribunal, Mumbai Bench,
Mumbai-400 001.

... Applicants

By Advocate Shri S.P. Saxena.

1. Union of India through
Director General Posts,
Dak Bhavan,
New Delhi-110 001.
2. The Chief Post Master General,
Maharashtra Circle,
Mumbai -400 001.
3. Mr. H.D. Jain,
then Asstt. Supdt. R.M.S.,
and now working as Superintendent
(P.S.S. Group 'B') under the control
of C.P.M.G., Mumbai-400 001. ... Respondents

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

O R D E R (ORAL)
Hon'ble Smt. Shanta Shastry. Member (A)

Both the OAs involve a common issue and facts are similar. Therefore we proceed to decide them by a common order.

2. The applicants had filed OA373/86 praying for stepping up of their basic pay to that of one Shri Tiwarkhede, who was admittedly junior to the applicants. The OA was allowed by order dated 27.8.87. The operative part was as follows:

"The respondents will redetermine the pay of the applicant concerned with effect from 11.10.1982 strictly in accordance with Rule 50 of PTM Volume IV read with Schedule No.6 of the PTM Volume III, if they were eligible to be

considered for such of the vacancies in question, in excess of the maximum period prescribed under the said rule, after granting them incremental benefit due to them according to the rules, in respect of the posts of IRMS and AIRMS, as the case may be.

This pay however, would be notionally fixed without giving the benefit of arrears to the applicants concerned, since they did not actually shoulder higher responsibility in the posts in question and therefore they would be deemed to have held these posts notionally, till their pay is redetermined to the above lines. As a result, this may necessitate refixation of pay of R-3 in the respective posts."

3. Thereafter one Mr. H.d. Jain who was recruited as Inspector RMS in the year 1974 also junior to the applicants had approached the Tribunal in group of OAs led by OA No.57/94 and connected OAs for stepping up of his pay to the level of his junior Shri Tiwarkhede. The OA was also allowed and his pay was ordered to be stepped up to that of Rs.675/- with reference to Shri Tiwarkhede vice order dated 25.01.1996. The applicants are aggrieved that while their pay was refixed at Rs.650/ per month that of their junior Shri Jain i.e. Respondent No.3 had been fixed at Rs.675/- per month as on 06.12.82. This has resulted in an anomalous situation whereby their junior had been fixed at a higher level compared to the applicants.

4. We have heard the learned counsel for the applicant as well as the respondents. As the factual position was not clear, the respondents were asked to produce the service books of the applicants, Tiwarkhede,

and Shri H.D. Jain i.e. Respondent No.3 and also to prepare a comparative chart in respect of the applicants as well as the other two. Accordingly, the respondents have filed a comparative statement showing the pay fixation of the applicants, Shri H.D. Jain and Shri Tiwarkhede. It is seen from this comparative statement that applicants' pay was not stepped up to that of Shri Tiwarkhede as on 11.10.82 as per the directions of this Tribunal in OA No.373/84 and that is why the applicants' basic pay has been lesser than that of Shri Jain necessitating the applicants to approach this Tribunal. Now the respondents admit that it is only due to non-implementation of the orders of the Tribunal that the applicants were deprived of the stepping up of the pay granted to them by this Tribunal. In view of this, the applicants are entitled to pay fixation at Rs.675/as on 11.10.1982 on par with the pay of their junior, Shri Tiwarkhede.

5. The respondents have drawn our attention to order dated 13.6.1988 which was issued in pursuance of the judgment delivered by the Tribunal on 27.8.1987 and 05.4.88 conveying that their pay was fixed notionally making it clear that they would not be eligible for any arrears of pay as per the orders of the Tribunal. It was also stated that the notional pay fixation will have the effect from the date of judgment i.e. 5.4.88. This is perhaps the reason why the applicants' pay was not

fixed at Rs.675/- as on 11.10.82. The Tribunal's direction was very clear in the matter and the applicants' pay ought to have been fixed at Rs.675/- on par with that of Shri Tiwarkhede. We accordingly direct the respondents to fix the pay of the applicants notionally on par with Shri Tiwarkhede as on 11.10.82 i.e. at Rs.675/- per month. However, arrears of pay arising out of such pay fixation shall be admissible to the applicants only from one year prior to filing of the OA. In case any of the applicants has retired, the pension shall be refixed and the consequential pensionary benefits shall also be paid to them. This exercise shall be carried out within a period of three months from the date of receipt of copy of this order. The OAs are allowed. No costs.

(SMT. SHANTA SHASTRY)
MEMBER (A)

(S.L. JAIN)
MEMBER (J)

Gajan