

Central Administrative Tribunal  
Mumbai Bench, Mumbai

O.A. No. 546 of 1997

New Delhi, dated this the 4th March 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. S.L.JAIN, MEMBER(J)

1. Arjun Ganpatro Made,  
R/at 76, Shivajinagar,  
Solapur. ..Applicant.

(By Advocate: Shri S.P.Kulkarni)

Versus

Union of India through

1. Chief Postmaster General,  
Maharashtra Circle, Old GPO  
Building, Fort,  
Mumbai.

2. Director of Accounts  
(postal),  
Nagpur.

3. Secretary,  
Dept. of Posts,  
Ministry of Communications,  
Dak Bhawan,  
Parliament Street,  
New Delhi. ..Respondents.

(By Advocate: Shri S.S.Karkera for Shri  
P.M.Pradhan)

ORDER

S.L.JAIN, MEMBER(J)

Applicant impugns respondents' order dated 4.2.94 and seeks a direction to treat him as promoted to L.S.G, HSG II and HSG I, as if no order treating him as OC existed, along with payment of arrears and revision of pensionary benefits.

2. Applicant had filed OA No.734/90 which was disposed of by order dated 10.2.93 with the following directions

*S.L.Jain*

"In this view of the matter the application is allowed. The respondents' order dated 19.12.75 and letter dated 6.6.89 are quashed and the respondents are directed to treat the applicant as belonging to Scheduled Tribes throughout his service including the period from 19.12.75 to 27.7.77. The applicant shall be entitled to consequential benefits including monetary benefits, if any. No order as to costs."

3. Purportedly in implementation of those directions, respondents have issued impugned order dated 4.2.94 treating applicant as belonging to Scheduled Tribe with effect from the date of his appointment i.e. 24.12.58, and granting him promotions to higher grades retrospectively from due dates, but while doing so respondents have treated him as promoted only on notional basis, and have denied him the benefits of arrears, and revision of his pensionary benefits.

4. Applicant contends that he filed several representations to respondents for the grant of arrears and revision of pensionary benefits, but to no avail. He had earlier filed CP No.43/96 alleging contumacious disobedience of the Tribunal's order dated 10.2.93 which was dismissed by order dated 9.12.96 giving him liberty to agitate the matter separately through an OA if he was aggrieved. This has given rise to the present OA.

5. We have heard both sides.

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6. On behalf of applicant it has been urged that by issuing impugned order dated 4.2.94 respondents have failed to comply with the Tribunal's order dated 10.2.93 in letter and spirit in as much as that order had specifically directed respondents to treat him as belonging to ST category throughout his service including the period from 19.12.75 to 27.7.97 and declared him entitled to consequential benefits including monetory benefits, if any. In this connection, it was contended that in the light of these specific directions applicant could not be denied the benefit of arrears, and of revision of his retiral benefits. Furthermore reliance was placed on the Hon'ble Supreme Court's ruling in Lalji Dubey & Ors. Vs. UOI Ors. 1983 SCC (L & S) 230 and S. Thankamanm Amma Vs. UOI & Ors. AISLJ 1987 (4) CAT 720 which itself refer to several previous rulings.

7. On behalf of respondents it was urged that as applicant had not actually worked on the posts to which he had been promoted from retrospective date (s) he was not entitled to the pay of that post in view of the contents of FR 17.

8. We have considered the matter carefully.

9. In our considered opinion, when the Tribunal by its aforementioned order dated 10.2.93 had specifically directed respondents to treat applicant as belonging to ST category throughout his service and declared him entitled to consequential benefits including monetory benefits, and the aforesaid order

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has not been shown to have been stayed, modified or set aside, applicant cannot be denied benefits of arrears and refixation of pensionary benefits. Furthermore in Thankamanm Amma's case (supra) it has been held that in case retrospective promotion has been given from the date of entitlement, FR 17 cannot be invoked to deny arrears.

10. The OA therefore succeeds and is allowed. The impugned order dated 4.2.94 is quashed and set aside to the extent that it denies applicant the benefit of arrears and refixation of retiral benefits consequent to his promotion from retrospective dates. Respondents are directed to pay applicant arrears consequent to his promotions as LSG w.e.f. 27.11.74; as HSG II w.e.f. 26.11.82 and HSG I w.e.f. 2.5.86. Applicant's pensionary benefits should also be recalculated accordingly, and any pensionary dues including arrears on that account should be calculated and paid to him. These directions should be implemented within 4 months from the date of receipt of a copy of this order. No costs.

J. (S.L. Jain )  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice Chairman(A)

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