

(47)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 484/89.

T.A.No.

Date of Decision : 20.11.91.

K.Radha Krishna Swamy

Petitioner.

Shri K.S.R.Anjaneyulu

Advocate for the
petitioner (s)

Versus

Union of India, represented by Secretary, Respondent.
Department of Posts, New Delhi & another

Shri N.V.Ramana, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R.Balasubramanian : Member(A).

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Ys.*
2. To be referred to the Reporter or not ? *Ys.*
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

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HRBS
M(A).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.484/89.

Date of Judgment 20.11.1991.

K.Radha Krishna Swamy

.. Applicant

Vs.

Union of India,
represented by

1. Secretary,
Department of Posts,
New Delhi.

2. Director of Accounts
(Postal),
Hyderabad.

.. Respondents

Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri N.V.Ramana, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A).

This application has been filed by Shri K.Radha Krishna Swamy against the Union of India, represented by Secretary, Department of Posts, New Delhi and another under section 19 of the Administrative Tribunals Act, 1985. The prayer here is to direct the respondents to revise the initial pay of applicant in Junior Time Scale to Indian Postal Service Group 'A' taking the special pay drawn by him in the Postal Superintendent Services Group 'B' (PSS Gr.'B' for short) taking into account all consequential benefits.

2. The applicant who was functioning as Asst. Director in PSS Gr.'B' during the period 1.6.82 to 4.4.86 was promoted and joined the Junior Time Scale of Indian Postal Service Group 'A' from 4.4.86 afternoon on regular basis. During his approximately 4 year tenure as Asst. Director he was drawing a special pay of Rs.100/- p.m. upto 31.12.85 which was raised to Rs.200/- p.m. from 1.1.86.

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It is stated that according to the Govt. of India, Ministry of Finance O.M.No.F.6(1)-E.II(B)/68 dated 8.1.68 read with the schedule to the Central Civil Services (Revised Pay) Rules, 1960 the special pay attached to the post of Asst. Directors working in the Postmaster-General's Office is in lieu of higher scale of pay and as per the Govt. of India, Ministry of Finance O.M.No.6(1)-E.III/B/(65) dated 25.2.65 this special pay which is in lieu of separate higher scale should be taken into account while fixing the pay on promotion to the higher post. It is the case of the applicant that in terms of the Govt. of India O.M. dated 12.12.74 (A9) the special pay of Rs.200/- p.m. which he was drawing should also have been taken into account while fixing his pay on promotion to Indian Postal Service Group 'A'. This was not done by the respondents. He represented and his case was rejected by the respondents. Hence this application.

3. The respondents have filed a counter affidavit and oppose the application. It is their case that the special pay of Rs.100/- p.m. (later raised to Rs.200/- p.m.) attached to the post of Asst. Directors in the Postmaster-General's Office was not in lieu of higher scale of pay but was granted in consideration of the specially arduous nature of duties and in consideration of a specific addition to the work of responsibility shouldered by them. Since it is not in lieu of the higher scale of pay, special pay need not be taken into account while fixing the pay on promotion.

4. I have examined the case and heard the learned counsels for the applicant and the respondents. The applicant relies on a decision dated 8.10.86 of the Jabalpur Bench of this Tribunal in their T.A.No.2/86. In that case the Jabalpur Bench held that in terms of the Govt. of India Memos dated 8.1.68 and 25.2.65 the special pay of Rs.100/- attached

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to the post of Asst. Directors should be taken into account while fixing the pay on promotion. The question I have to examine is the applicability of this decision of the Jabalpur Bench to the present case.

5. If the special pay attached to the post of Asst. Directors is in lieu of a higher scale of pay there ought to be a rule for posting PSS Gr.'B' officers as Asst. Directors which amounts to a promotion. The learned counsel for the applicant has not produced any rule which shows that posting of a PSS Gr.'B' officer as an Asst. Director is done as a promotion. Conversely, if an Asst. Director is posted as a PSS Gr.'B' officer outside the Postmaster-General's office it would amount to reduction in scale which is a major penalty without disciplinary procedure. It is common knowledge that the two posts are inter-changeable and persons ~~easily~~^{freely} moved from the normal post to the special pay post and vice-versa. This leads me to think that the special pay attached to the post of Asst. Directors is not in lieu of a higher scale of pay.

6. The IV Pay Commission recommended:

24.1 Special pay is granted as an addition of the nature of pay to the emoluments of a post or of a government employee, in consideration of -

(a) the specially arduous nature of the duties;

OR

(b) a specific addition to the work or responsibility.

24.3 The Third Pay Commission had observed that the system of special pay could not be discarded in the case of posts where persons had to be attracted for a fixed tenure or for the purpose of compensating genuine and discernible duties, but they were of the view that it should be used as sparingly as possible. While we recognise the need for granting special pay for compensating certain genuine cases, we think it necessary to limit the number of posts for grant of special pay. We have suggested revised scales of pay inclusive of special pay in some cases. Keeping in view the scales of pay proposed by us, we recommend that the existing rates of special pay, wherever admissible, may be doubled, subject to a ceiling of Rs. 500/- p.m.

To

1. The Secretary, Department of Posts, New Delhi.
2. The Director of Accounts (Postal) Hyderabad.
3. One copy to Mr. K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, Addl. CGSC. CAT.Hyd.
5. Copy to All Reporters as per standard list of CAT.Hyd.Bench
6. One spare copy.

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The Government accepted it and directed the various Ministries/Departments concerned to separately undertake a review of the posts for which special pay was admissible with a view to limit the number of special pay posts. Also, vide Govt. of India O.M.No.7(76)-E.III/86 dated 13.3.87 the President was pleased to decide that the term "special pay" means the special pay admissible in terms of Ministry of Finance O.M.No.F.7(52)-E.III/78 dated 5.5.79 as defined in F.R.9(25) read with F.R.9(21)(a)(ii). Moreover, unlike in the case of their 8.1.68 letter there is no specific mention that the special pay attached to the post of Asst. Directors should be treated as a substitute for higher scale of pay. From this it is clear that the IV Pay Commission recommendations and the subsequent decision of the Government thereon did not envisage the special pay attached to the post of Asst. Directors as a substitute for higher scale of pay. In fact, there is an indication that in many cases the special pay attached had been ~~taken into account~~ ^{included} while laying down the new scales of pay. It was, however, left open to the various departments to identify posts which should still carry special pay in view of the arduous nature of duties and in such cases the quantum of special pay was even doubled. It is thus clear to me that special pay which continued after the advent of the IV Pay Commission is not at all in view of higher scale of pay and, therefore, should not be taken into account while fixing the pay on promotion. The decision of the Jabalpur Bench does not apply to the present case in view of the ^{changed} ~~pay~~ structure brought about by the IV Pay Commission.

7. In view of the above, I find no case for me to interfere in the matter and accordingly dismiss the application with no order as to costs.

3/12/91
Deputy Registrar

Dated 20 th November, 1991.

R. Balasubramanian
(R. Balasubramanian)
Member(A).