

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 59/91.

T.A.No.

Date of Decision: 16.8.1991.

All India Postal Accounts Employees Association Petitioner.

Hyderabad Branch, represented by its Circle Secretary Sri A.P.Sastry Advocate for the & 12 others
Shri K.S.R.Anjaneyulu petitioner (s)

Versus

The Director General (Postal) (India), Postal Accounts Respondent(s)
Wing, Dak Bhavan, Parliament Street,
New Delhi - 110 001. & another

Shri Naram Bhaskar Rao, Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. J.NARASIMHA MURTHY : MEMBER (JUDICIAL)

THE HON'BLE MR. R.BALASUBRAMANIAN : MEMBER (ADMINISTRATIVE)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
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)

(JNM)
M(J)

(RBS)
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.59/91.

Dt. of Decision: 16.8.1991.

1. All India Postal Accounts Employees Association, Hyderabad Branch, represented by its Circle Secretary Sri A.P.Sastry.
2. Sri N.Hanumantha Rao
3. Sri V.Janardhana Reddy
4. Sri K.Gopala Rao
5. Sri S.Samsamuddin
6. Sri S.Dharma Raju
7. Sri T.Adinarayana
8. Sri J.Raja Gopal
9. Sri N.C.Punna Rao
10. Sri S.Sambaiah
11. Smt.Kousalya Iyengar
12. Sri M.Balakrishna Rao
13. Sri A.V.Raghavan

.....Applicants

Vs.

1. The Director General (Postal) (India), Postal Accounts Wing, Dak Bhavan, Parliament Street, New Delhi-110 001.
2. The Director of Accounts (Postal), Andhra Circle, Abids, Hyderabad.

.....Respondents

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

Counsel for the Respondents : Shri Naram Bhaskar Rao,
Addl.CGSC

CORAM:

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

(Order of the Division Bench delivered by
Hon'ble Shri J.N.Murthy, Member (J)).

This application is filed for a relief to direct the Respondents to extend the benefit of Judgement in O.A.No.

87 dt.23-11-89 to all the applicants herein i.e. Sl.

- 2 -

No.2 to 13 as they are similarly placed and belonging to the same category as the applicant in O.A.376/87 and to hold the action of the Respondents in not extending the benefit as per the Director of Accounts (Postal) letter No.224/Admn. I/EA II/CAT/0A/dt.30-11-1990 as discriminatory, arbitrary and unreasonable.

The facts of the case are briefly as follows :-

The first applicant is the Secretary of All India Postal Accounts Association, Hyderabad Branch, Hyderabad, and the other applicants from 2 to 13 are employees working in the Director of Accounts Office (Postal) at Hyderabad, and the applicant Sri A.V.Raghavan at serial 13 is now posted at Madurai as Accounts Officer. The cause of action arise even with regard to him when he was working as J.A.O. at Hyderabad. They are all members of the All India Postal Accounts Association, Hyderabad.

The Association with one of the affected persons filed application No. CA 376/87 in this Bench of the Tribunal to extend the benefit of enhanced Special Pay of Rs.35/- per month to all the officials who have passed S.A.S. Examination prior to 1-4-1976, from the second year onwards of the date of passing S.A.S. Examination and the actual monetary benefit be paid from 22-9-1979. The Tribunal accorded the O.A.376/87 on 23-11-1989 directing the respondents to the initial pay of the applicants in the J.A.O's cadre on a notional basis from the date they become eligible to draw Rs.35/- as special pay.

Actual pay on the basis will however become payable to them only from 22-9-79. The second respondent implemented the Judgement with regard to one applicant only i.e. Sri B.Laxmi Narayana, J.A.O., who was the affected person and joined with the association as applicant on O.A.376/87. When the Judgement is not implemented to all the officials who are members of the Association and similarly placed, they represented through Association on 14-2-90. As no action was taken to extend the benefit to the applicants, identical representation dated 30-4-90 has been submitted by all the applicants fully explaining that their case is in all circumstances same as that of Sri B.Laxmi Narayana i.e. the applicant in OA 376/87. The Director of Accounts, Hyderabad issued memo No.224/Admn.I/ E.A.II/CAT/OA/376/87 dt.30-11-1990 rejecting the claim of the applicants. Hence this petition.

A counter has been filed on behalf of the Respondents stating that the Judgement of OA 376/87 cannot be extended to the similarly placed officials on the grounds that while giving the said judgement the Bench had relied upon the decision given by the Bangalore Bench of the Central Administrative (Shri Nanjundaiah & others) Tribunal/regarding special pay granted for an entirely different purpose. In the case of Shri Nanjundaiah & others they were drawing the special pay of Rs.35/- granted for a different purpose i.e. for working on identified seats limited to 10% of the total posts of Jr.Accountant/Sr.Accountant

This special pay was not taken into account for fixation in their cases as they were promoted to the higher post prior to 1-9-85 in terms of Government of India's orders which inter-alia provides that the benefits of the special pay for fixation should be given only in the cases of promotion made on or after 1-9-85. The Bangalore Bench of the Central Administrative Tribunal had however directed to fix the pay after taking the special pay into account on notional basis from the date of their promotion with actual benefits from 1-9-1985 as they were drawing the special pay @ Rs.35/- on the date of their promotion.

In the present case, the applicants were drawing the special pay of Rs.20/- only on the date of their promotion as Jr. Accounts Officer which was already taken into account for fixation on their promotion as Jr. Accounts Officer. The enhanced rate of special pay @ Rs.35/- per month granted to qualified officials from the second year of their waiting was introduced only from 22-9-79 and as the applicants had already been promoted to the post of Jr. Accounts Officer before this date i.e. 22-9-1979 the question of grant of special pay at the enhanced rate does not arise. It is a well accepted fact that wherever a new concession is extended by the Government giving effect from a specified date, only those fulfilling the conditions on or after the date so specified would be benefited. In this case, there is no justification for fixation of pay

of the applicants on promotions after taking the enhanced rate of special pay of Rs.35/- into account as they were not actually drawing this special pay on the date of their promotion as Jr. Accounts Officer. In fact, the applicants have not at all drawn the special pay of Rs.35/- at any stage. In the case of Nanjudaiah & others, the applicants were drawing the special pay notwithstanding the special pay is of different type, on the date of their promotion to the post but the benefit of counting it for fixation was not allowed simply because of the fact that they were promoted prior to 1-9-85 whereas in the present case the applicants were not at all entitled and thus not drawing the special pay at the enhanced rate at any stage.

So the applicants cannot claim the benefit of the judgment of the Central Administrative Tribunal passed in CA 376/87 merely because they are also similarly situated in as much as they are not entitled for the benefit of counting special pay at the rate which they have not actually drawn. So the application is liable to be dismissed for the above reasons.

Shri K.S.R.Anjaneyulu, learned counsel for the applicants and Shri Naram Bhaskar Rao, learned standing counsel for the Respondents argued the matter. The learned counsel for the applicants while arguing the matter filed the Bench decision of this Tribunal passed in CA 376/87 dt.23-11-89 stating that the applicants in CA 376/87 and the applicants herein are

- 6 -

similarly placed and the respondents have also raised the same
pleas with regard to the payment of special pay to the appli-
cants therein also, But their lordships disposed-of the matter
with a direction to the Respondents to fix the initial pay of
the applicants in the JAO's grade on a notional basis from
the date they became eligible to draw Rs.35/- as special pay.
Actual pay on this basis will however become payable to them
only from 22-9-79. It is further directed therein that the
Respondents shall pay the arrears within 3 months from the date
of receipt of the orders. The petitioners in this petition
are also similarly placed, inspite of the applicants repeated
representations the respondents ^{have} ~~has~~ not extended the benefit
of the above judgment passed in OA 376/87 to the applicants
herein. So they filed this application for the same benefits.

The learned counsel for the applicants brought ~~to our~~ ^{to our} notice
the judgment reported in II(1990)ATLT(SC)232 wherein it was
held that denial to extend the benefits of the judgment
^{plaud}
to the same categories/similarly situated persons is unreasonable
and unjust. So basing on the above judgment we held that the
applicants in this ^{OA} are also entitled to the same benefits as
given in OA 376/87. So we direct the Respondents to fix the
initial pay of the applicants in the JAO's grade on a notional ~~basis~~
~~basis~~ on a notional basis from the date they became

.....7.

- 7 -

eligible to draw Rs.35/- as special pay. Actual pay on this basis will however become payable to them only from 22-9-79. The respondents are directed to effect payment of arrears within three months from the date of receipt of this order. The application is disposed of with the above directions. No order as to costs.

M/S

(J.N.MURTHY)
Member (J)

R.Balasubramanian

(R.BALASUBRAMANIAN)
Member (A)

Dated: 16/8/1991.

S.28/8/91
Registrar.

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To

1. The Director General (Postal) India,
Postal Accounts Wing, Dak Bhavan,
Parliament Street, New Delhi-1.
2. The Director of Accounts (Postal)
Andhra Circle, Abids, Hyderabad.
3. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
4. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
6. One spare copy.

pvm

*Recd. 10/10/91
2010681*

ASR
7 20/9/91

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MULTY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 16 - 8 - 1991

~~ORDER~~ JUDGMENT

M.A./R.A./C.A. No.

in

D.A. No.

59/91

T.A. No.

(W.P. No.

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

