

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-N0.752-OF-1994

DATE-OF-ORDER:-3rd-March,-1997

BETWEEN:

1. P.Satyanarayana,
2. M.Srinivasa Char,
3. S.Krishna Murthy,
4. S.L.Pandurangam,
5. PVRR Chakrapani Rao,
6. Syed Yousuf Quresh.

.. APPLICANTS

AND

1. Union of India rep. by the
Director Genral, Dept. of Posts,
New Delhi 110 001,
2. The Chief Postmster General,
Andhra Pradesh circle,
Hyderabad 500001,
3. The Senior Postmaster,
Hyderabad GPO, Hyderabad - 1,
4. The Senior Postmaster,
Khairatabad HPO, Hyderabad-4,
5. The Sr.Superintendent of Post Offices,
Hyderabad City Division, Hyderabad-1,
6. The Sr.Superintendent of Post Offices,
Hyderabad South East Division,
Hyderabad-27,
7. The Sr.Superintendent of Post Offices,
Secunderabad Division,
Hyderabad-7,
8. The Sr.Superintendent of Post Offices,
Hyderabad Sorting Division,
Hyderabad-27.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.TVVS MURTHY

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

R

D

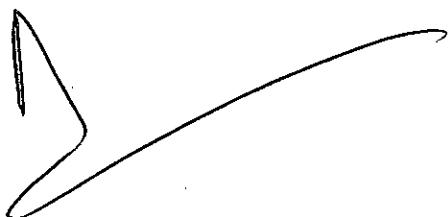
ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

Heard Shri TVSS Murthy, learned counsel for the applicants and Shri W.Satyanarayana for Shri N.R.Devaraj, learned standing counsel for the respondents.

2. There are 6 applicants in this OA. They were all retired HSG I, HSG II and LSG Postal officials. To relieve the pressure on the Department, they were all engaged to perform the work of Postal Assistants/Sorting Assistants as Short Duty Postal Assistants or Short Duty Sorting Assistants. It is stated that they were paid at the rate of Rs.4=40ps per hour for performing duties as mentioned above. It is stated that in the same category, there is another set of staff of Short Duty Postal Assistants who were paid at the higher rate of Rs.8=80ps per hour. The applicants in this OA pray for treating them on par with the other short duty staff who were paid Rs.8=80ps per hour. It is the contention of the applicants that by denying them higher rate of payment per hour, they are denied equal treatment before law and they seek a direction from this Tribunal directing the Department to give them higher rate as given to the SDPAs. They placed reliance on the judgement of the Madras Bench of the Tribunal in OA 1028/91 and batch wherein it is pointed out that disparity in pay fixation between the category of the present applicants and those who were getting higher rates per hour had to be dispensed with and all of them should be paid equally.

R



3. The Department has filed reply. They submit that the applicants herein are retired pensioners engaged from a separate and distinct class vis-a-vis RTP/Short Duty Clerks who were recruited to absorb in future vacancies who enjoy the status of candidates waiting for absorption. It is also significant to note that there are no RTP/SD Clerks having the status of candidates waiting for absorption and, therefore, there need not be any grievance of the applicants on this score as no such category exists now. Even otherwise also there is ~~is~~ valid distinction between the reemployed pensioners of the Postal Department and RTP/SD Clerks who ~~were~~ ^{are} waiting for absorption. The distinction is well marked and found to be valid.

4. It is further stated that a retired official has no claim for reemployment and when reemployment is offered, it is offered on ~~the~~ particular terms which takes into account the pensionary benefits which he/she enjoys. The respondents further state that the distinction made is not invidious one and is based on certain rational principles.

5. The main contention of the applicants in this OA is that they should be treated on equal footing with those SDPAs/SD Clerks who are yet to be absorbed in the Department and who do not get pension as the applicants in this OA are getting.

6. The applicants in this OA earned pension and they already served in the Department. Further they were given opportunity now to earn a little bit more by way of

R

1

reengaging them for performing ~~the~~ duty of Postal/Sorting Assistants. Hence these two classes are distinct and there is no comparison between these two classes. They cannot claim parity with the others. In that view of the matter, we think that the argument for payment of equal wages on par with the persons doing same work is violative of Articles 14 and 16 of the Constitution has no substance. Hence this contention of the applicants is rejected.

7. The next contention of the applicants is that the Madras Bench of the Tribunal has given them relief in the OAs referred to above. We respectfully disagree with the views expressed by the Madras Bench since the Madras Bench has not taken into account the distinction between the reemployed pensioners and the new entrants of the Department. The distinction we have ^{observed} is obvious enough to divide them into two separate ^{and} ~~and~~ distinct classes. Therefore, the order of the Madras Bench of the Tribunal cannot be relied upon solely to grant the relief as prayed in this OA.

8. The third contention of the learned counsel for the applicant is that since there is a view expressed by the Madras Bench and that view is not accepted by this Bench, the course left to this Bench is to refer this case to the Full Bench. Similar contention was also raised in the R.A.No.35/94 in OAs 10, 674 and 735/94 on the file of Bangalore Bench of the Tribunal. It was ^{also} held therein as follows:-

"We do not think it appropriate to refer this matter to a Full Bench for the

Br

D

reason that in Madras, the order of that Bench has been implemented and we are told that to be contrary. Our views in the OA were really given credence to and the department has passed appropriate orders which, of course, is not favourable to the applicants. But, that development, we do not think develops such a debacle which requires to be cleared off by a Full Bench. We have considered the decision of the Madras Bench and have dissented from that view holding the same to be per incuriam and we see no occasion for referring the matter to a Full Bench".

9. We are respectfully agree with the view expressed by the Bangalore Bench of the Tribunal in regard to this contention. Hence this contention is also rejected.

10. The learned counsel for the applicants submits that the amount of honorarium paid to them per hour is different from division to division even in twin cities and that this causes hardship to the reengaged pensioners and also a distinction between the same set of classes. It is also stated for the applicants that in some divisions, reengaged pensioners were paid even for holidays/sundays/national holidays. There is no uniformity in the same division. Hence the learned counsel for the applicants submitted that they should be paid in accordance with the guidelines

R

J

enumerated in the Memo No. ST/21-65./86.I dated 8.4.87 of the DGP&T (Annexure A2 of the OA). This point is not covered in the reply. Even in the OA this point has not been stressed to give any direction in this connection though it is stated in the relief portion. Mere stating in the relief portion without proper remark and without proper contention, it is not possible to traverse this contention. Hence we are of the opinion that the applicants should submit a detailed representation to R-2 and if such a representation is received, the same should be disposed of in accordance with law by R-2.

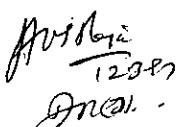
11. The OA is dismissed with the above observation.
No order as to costs.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

3/3 (9)

DATED: - 3rd March, 1997
Dictated in the open court.


(R.RANGARAJAN)
MEMBER (ADMN.)


12/3/97
D.N.S.

vsn

••7••

O.A.NO.752/94

Copy to:

1. The Director General, Dept. of Posts,
New Delhi.
2. The Chief Postmaster General, Andhra Pradesh Circle,
Hyderabad.
3. The Senior Postmaster, Hyderabad, GPO.,
Hyderabad.
4. The Senior Postmaster, Hyderabad GPO.,
Hyderabad.
5. The Senior Superintendent of Post Offices,
Hyderabad City Division, Hyderabad.
6. The Senior Superintendent of Post Offices,
Hyderabad South East Division, Hyderabad.
7. The Senior Superintendent of Post Offices,
Secunderabad Division, Hyderabad.
8. The Sr. Superintendent of Post Offices,
Hyderabad Sorting Division, Hyderabad.
9. One copy to Mr.T.M.V.S.Murthy, Advocate,CAT,Hyderabad.
10. One copy to Mr.N.R.Devraj, Sr.CGSC,CAT,Hyderabad.
11. One copy to O.R.(A), BAT,Hyderabad.
12. One duplicate copy.

YLKR

SPR
-284/97

TYPANG

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWARI:
M(J)

DATED: 3/3/97

ORDER/JUDGEMENT

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

D.A. NO. 752/94 ⁱⁿ R-26/3/97

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

