

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.280/97

DATE OF ORDER : 16-04-1997

Between :-

P.Balalingam

... Applicant

And

1. The Sr.Suptd. of Post Offices,  
Sec'bad Division, Sec'bad, AP,
2. The Chief Postmaster General,  
Hyderabad.
3. The Director General,  
Dept. of Posts, Sansad Marg,  
New Delhi - 1.

... Respondents

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Counsel for the Applicant : Shri Krishna Devan

Counsel for the Respondents : Shri V.Bhimanna, CGSC

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CORAM:

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

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(Order per Hon'ble Shri R.Rangerajan, Member (A) ).

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The applicant in this O.A. while working as LSG Grade Clerk in the scale of pay of Rs.425-640/Rs.1400-2300 was posted as Asst.Postmaster (Accts.), Kurnool Dn. vide letter No.B1-17/Accts. 88-89 dt.20-3-89. He joined on that post on 7-4-89. His pay was re-fixed as per the 3rd pay Commission scales of pay in the grade of Rs.1400-2300 and on 3-12-89 his pay was fixed at the stage of Rs.1640/-. The applicant was given a special pay of Rs.40/-pm over and above his pay with effect from 7-4-89.

2. The applicant contends that the post of Asst.Postmaster (Accts) is a higher grade post discharging higher responsibilities compared to LSG (Accts) and hence his pay fixation in the category of Asst.Postmaster (Accts) when he <sup>was</sup> ~~is~~ posted to that category should be fixed in accordance with FR 22(c). Giving him the special pay is not a compensation for fixing his pay under FR 22(c).

3. The applicant relies on the judgement of this Tribunal in OA 1434/93 decided on 5-5-93 to state that his case is similar to that of the applicants in that OA and that the applicants in that O.A. were given fixation in accordance with FR 22(c) when they were posted as Asst. Postmaster (Accts) and <sup>hence he</sup> /should also get the similar relief.

4. This O.A. is filed for fixation <sup>)</sup> of his pay under Rule <sup>)</sup> FR 22(c) in the payscale of Rs.1400-2300 on his ~~posting~~ as Asst. Postmaster (Accts), Kurnool Division with effect from 7-4-89 onwards and to draw arrears on that basis.

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5. A reply has been filed in this O.A. The main contention of the respondents in this OA is that the applicant has been given a lumpsum amount of Rs.40/- pm for performing arduous nature of work in the post of APM (Accts) and it is not a case of promotion. Thus the respondents counsel tried to distinguish this case from that of OA 1434/93 decided on 5-5-95.

6. We have gone through the facts of that case and also direction given in OA 1434/93. We are satisfied that the facts of this case are same as the facts of the case in OA 1434/93. The applicants in that OA were LSG (Accts) and posted as APM (Accts) and they requested for fixation of pay when posted as APM (Accts) on the basis of FR 22(c). The facts and prayer in this OA is also similar. Hence we do not see any reason to defer from the direction given in OA 1434/93.

7. It is to be noted that the applicants in OA 1434/93 were not given a special pay of Rs.40/- pm whereas the applicants herein was given the special pay of Rs.40/- pm and that is the only distinguishing feature between these two cases. If the applicant is not happy in receiving the special pay of Rs.40/- pm and feels that he will be benefitted by fixation under FR 22(c), there is nothing wrong in withdrawing special pay of Rs.40/- pm right from the date it was granted to him and substitute for pay fixation under FR 22(c). In that view if the pay of the applicant is going to be fixed under FR 22(c), the recovery of the special pay of Rs.40/- pm received by him so far has to be <sup>effected</sup> deducted.

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8. The next question that arises in this O.A. is in regard to the payment of arrears. The applicant submits that he represented his case way back in 1990 for fixation of his pay under FR 22(c). He further submits that he has approached this Tribunal when his case was rejected in 1996. Hence he demands <sup>arrears</sup> ~~for the~~ full pay right from the date of his promotion. We do not agree with the view of the applicant in regard to the payment of arrears. The applicant was posted as APM way back in 1990. If his request for fixation under FR 22(c) is not granted, within a reasonable period after he took charge as APM, he should have approached this Tribunal or any other forum for redressal of his grievance. Further, the direction in OA 1434/93 was given on 5-5-93. Either the applicant could have joined hands with the applicants in that OA or he could have atleast approached this Tribunal immediately after 5-5-93. Even in this course the applicant has taken action only belatedly and filed this O.A. only in the year 1997. Hence it has to be held that if the pay of the applicant is going to be fixed in accordance with FR 22(c), he is entitled for arrears on that basis only from one year prior to filing this O.A. i.e. 3.3.96 ~~as~~ this OA is filed on 3.3.97).

9. In view of foregoing, the following direction is given :-

The pay of the applicant is to be fixed notionally under FR 22(c) when he was posted as APM (Accts) on 7-4-89 in the scale of pay of Rs.1400-2300. The applicant is entitled for arrears if any, on that basis only from one year prior to filing of this OA i.e. 3.3.96 (This OA was filed on 3.3.97).

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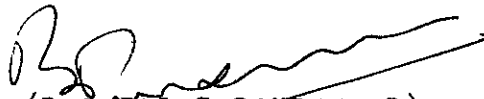
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The amount of Rs.40/- pm paid to the applicant as special pay right from the date of payment of the special pay should be recovered from the applicant alongwith fixation of his pay as above.

10. Time for compliance is four months from the date of receipt of a copy of this order.

11. Original Application is ordered accordingly at the admission stage itself with no order as to costs.

  
(B.S. JAI PARAMESHWAR)  
Member (J)  
16/4/97

  
(R.R. ANGARAJAN)  
Member (A)

Dated: 16th April, 1997.  
Dictated in Open Court.

avl/

  
D.R. (J)

1.6.1.

## Copy to:

1. The Senior Superintendent of Post Offices,  
Secunderabad Division, Secunderabad.
2. The Chief Postmaster General, Hyderabad.
3. The Director General, Dept. of Posts, Sansad Marg,  
New Delhi.
4. One copy to Mr. Krishna Devan, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to G.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

9/6/97  
TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

16/4/97

ORDER/JUDGEMENT

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

in

O.A.No. 280/97

ADMITTED INTERIM DIRECTIONS ISSUED  
ALLOWED  
DISPOSED OF WITH DIRECTIONS  
DISMISSED  
DISMISSED AS WITHDRAWN  
ORDERED/REJECTED  
NO ORDER AS TO COSTS

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
प्रेषण/DESPATCH

- 9 MAY 1997

हैदराबाद न्यायपीठ  
HYDERABAD BENCH