

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.186/2000 Date of order: 17/8/2001

Ram Chandra Sen, S/o Shri Paras Ram Sen, R/o C/o
Sh.P.K.Chaudhry, Ajmer Road, Sodala, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to Govt of India,
Dept. of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General Rajasthan Circle, Jaipur.
3. Sr.Superintendent, Railway Mail Service, Jaipur Dn.,
Jaipur.
4. Dy.Director, Postal Accounts, Deptt of Posts,
Rajasthan Circle, Jaipur.
5. Head Record Officer, Railway Mail Service, Jaipur.

...Respondents.

Mr.P.N.Jati : Counsel for applicant

Mr.N.C.Goyal : for respondents.

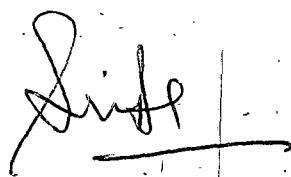
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR. S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to issue PPO on the basis of last pay drawn at Rs.1050/- per month as on 1.11.92 or on 1.5.93 and to direct the respondents to revise the pension/pensionary benefits payable to the applicant and to pay the arrears with interest @ 18% per annum to the applicant.

2. In brief the ground of relief as stated by the applicant in this O.A is that the applicant was drawing pay of Rs.1050 per month when he was retired on 31.10.92 but the respondent department determined his pension and other retiral benefits on the basis of pay drawn by him on 30.4.91



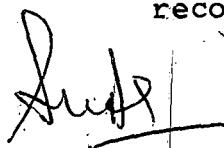
which is totally arbitrary, unjustified and contrary to pension regulation.

3. Reply was filed. In the reply, it is stated that the applicant was given promotion under BCR Scheme from 1.10.91 and was given pay scale Rs.950=1400 (Group-C) vide order dated 10.7.92. It is further stated that the applicant opted for new scheme and the applicant on promotion became Group-C to be employee, therefore, he was given retirement on completion of 58 years. In view of this, the applicant was given retirement on 31.10.92. As he has already crossed the date of retirement hence the period from 1.5.91 to 31.10.92 was treated as re-employment and the pensionary benefits were determined and paid to the applicant accordingly, therefore, the applicant has no case.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant has vehemently argued that at the time of retirement on 31.10.92, the pay drawn by the applicant was Rs.1050/- therefore, pension/pensionary benefit payable to the applicant should have been determined accordingly and fixing his pension/pensionary benefits on the basis of pay drawn by the applicant as on 30.4.91 is arbitrary and contrary to rules. The counsel for the respondents objected to this argument and supported the action of the respondents' department arguing that fixing the pension/pensionary benefit to the applicant on the basis of last pay drawn on 30.4.91 is perfectly legal and as per rules.

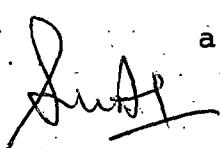
6. I have given anxious consideration to the rival contentions of both the parties and also perused the whole record.



7. The applicant has not challenged any order in this O.A and he has also not challenged letter No.37-27/92-SPB.I dated 16.3.93 issued by the Deptt. of Personnel & Training to the effect that the service rendered beyond the age of superannuation is to be treated as reemployment. He has also not challenged his retirement at the age of 58 years but has only challenged the determination of his pension and pensionary benefit on the basis of pay drawn by him as on 30.4.91.

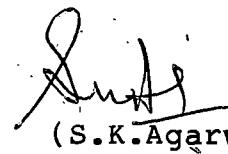
8. As per the official record, the date of birth of the applicant is 4.4.1933 and according to which the applicant can be superannuated at the age of 58 years on 30.4.1991 and at the age of 60 years on 30.4.93.

9. Admittedly, the applicant was given promotion under the BCR Scheme, after submitting his option for promotion in the scale of 950-1400 w.e.f. 1.10.91 vide order dated 10.7.92. The D.G Posts, New Delhi, made it very clear vide his letter dated 28.7.92 that under the said scheme, the Group-D employees opting for the said scale of Rs.950-1400 would be retired on attaining the age of 58 years instead of 60 years. The D.G Posts, New Delhi further clarified vide his letter dated 16.3.93 that the period of service rendered by such officials, after attaining the age of 58 years would be treated as re-employment till the date of their actual retirement. These letters/circulars have not been challenged by the applicant in this O.A. In view of these orders, the respondents have considered the applicant deemed to have been retired on 30.4.91 and his period from 1.5.91 to 31.10.92 was treated as reemployment and pension and pensionary benefits payable to the applicant were determined accordingly and paid to him. It also appears that the



applicant filed representation on 6.2.98 which was decided by a detailed and speaking order on 21.4.1999 but the applicant did not challenge the same. The applicant only challenged the determination of pension on the basis of pay drawn as on 30.4.91 alleging that pension/pensionary benefits payable to the applicant should have been determined on the basis of pay drawn by him on 31.10.92. A Group-D employee on promotion under BCR Scheme in the pay scale Rs.950-1400 (Group-C post) has to retire at the age of 58 years as per the DG Posts letter dated 28.7.92 read with FR 56. In the instant case, the applicant was promoted under BCR Scheme from Group-D post to Group-C with retrospective effect in the pay scale Rs.950-1400, after submission of his option. Had the applicant not opted for promotion under BCR Scheme, as number of his colleagues have not opted, he could have continued in service upto the age of 60 years. But in this case, the applicant after submission of his option was promoted under BCR Scheme from Group-D to Group-C, therefore, the action of the respondents fixing his pension on the basis of pay drawn by the applicant as on 30.4.91 is neither arbitrary nor contrary to rules and in my considered view, the applicant has no case.

10. I, therefore, dismiss this O.A having no merit with no order as to costs.



(S.K. Agarwal)

Member. (J).