

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR  
ORDER SHEET**

APPLICATION NO.: \_\_\_\_\_

Applicant(s)

Respondent(s)

Advocate for Applicant (s)

Advocate for Respondent (s)

**NOTES OF THE REGISTRY**

**ORDERS OF THE TRIBUNAL**

**OA No. 489/2003.**

**28.03.2007.**

Mr. P. N. Jatti counsel for the applicant.

Mr. Tej Prakash Sharma counsel for the official respondents.

Mr. N. C. Goyal counsel for Private respondents.

Due to the sad demise of Mr. Jagdish Saran Rastogi, Sr. Advocate of Hon'ble Rajasthan High Court, the Advocates are abstaining the court work today.

List on 29.3.2007.

  
(J. P. SHUKLA)  
ADMINISTRATIVE MEMBER

  
(KULDIP SINGH)  
VICE CHAIRMAN

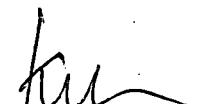
**P.C.**

29.3.2007

Mr. P.N. Jatti, Counsel for applicant  
(Mr. Tej Prakash Sharma) Counsel for official respondents  
Mr. N.C. Goyal

Heard. The OA is disposed of by a separate order, for the reasons recorded therein.

  
(J.P. Sharma)  
M (A)

  
(Kuldip Singh)  
V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 29th day of March, 2007

ORIGINAL APPLICATION No. 489/2003

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR. J.P.SHUKLA, MEMBER (ADMN)

Gajraj Sharma  
s/o Devi Sahai Sharma,  
aged about 56 years,  
r/o 17, Malviya Nagar,  
Jaipur, presently working  
as BCR in the office of R.M.S.,  
Jp. Division, Jaipur

.. Applicant  
(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through  
the Secretary to the Govt. of India,  
Department of Posts,  
Dak Bhawan,  
Sansad Marg,  
New Delhi.
2. Chief Postmaster General,  
Rajasthan Circle,  
Jaipur.
3. Senior Supdt., Railway Mail Service,  
Jp. Dn. Jaipur.
4. Head Record Officer,  
Railway Mail Service,  
'Jp' Dn., Jaipur.

.. Respondents

(By Advocate: S/Shri Tej Prakash Sharma and N.C.Goyal)



O R D E R (ORAL)

The applicant has filed this OA u/s 19 of the Administrative Tribunals Act, 1985 seeking direction to quash and set-aside the order dated 11<sup>th</sup> September, 2003 by which his pay was refixed and recovery was ordered.

2. Facts, as alleged by the applicant, in brief, are that the applicant earlier filed an OA for stepping up of his pay at par with one Shri M.P.Tyagi, who was junior to him in the same cadre and was getting more pay than the applicant. The OA came to be allowed in his favour and he was allowed the benefit of stepping up of pay at par with his next junior Shri M.P.Tyagi. Number of other similarly situated persons also enjoyed similar benefits. No Special Appeal was preferred against the judgment passed in the OA filed by the applicant.

3. Subsequently, the Supreme Court in the case of Union of India vs. R.Swaminathan, Civil Appeal No.8658/96 decided on 12.09.97, wherein their Lordship held that the pay of an employee can be stepped up only if junior and senior officials belong to the same cadre and the posts to which they had been promoted is in the same cadre, and the anomaly became due to direct application of FR 22(C), which is now FR



22(I)(a)(i), and if the higher pay was received by the junior on account of local officiating promotion that does not entitle a senior to get his pay stepped up to make it at par with the pay of his junior. Thereafter, in pursuance to the judgment of the Supreme Court, applicant was issued notice vide letter dated 6.9.99 and also the order of his refixation and the recovery dated 11.9.2003 at Ann.A1. This order has been passed for making recovery as well as refixing his pay by withdrawing the benefit of stepping up of pay granted to him in pursuance of the judgment of this Bench in the case filed by him. The cut of date for recovery has been fixed as 13.9.97 i.e. the judgment of the Apex Court in R.Swaminaths's case (supra).

4. The respondents contesting the OA have filed their reply.

5. We have heard the learned counsel for the parties and gone through the record.

6. At this stage, we may state that this Bench has already settled the controversy involved vide OA No.467/2003, Basir Mod. Vs. Union of India, and OA Nos. 512, 515, 517, 518 519 of 2003 decided on 16<sup>th</sup> April, 2004. The controversy involved in the instant case is squarely covered on all fours by the said judgments. In this view of the matter, we find that

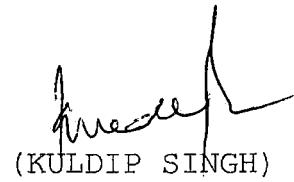


there is no necessity of narrating the discussions afresh. We have absolutely no hesitation in following the same and decide this OA on the similar lines.

7. Accordingly, we allow the OA. The order dated 11<sup>th</sup> September, 2003 (Ann.A1) is hereby quashed. The respondents are directed to refund the amount, if any, already recovered from the applicant in pursuance to the impugned order. This order shall be complied with within a period of three months from the date of receipt of a copy of this order. No order as to costs.

  
(J.P. SHUKLA)

Administrative Member

  
(KULDIP SINGH)

Vice Chairman

R/