

Central Administrative Tribunal  
Jabalpur Bench

OA No.1046/04

Indore, this the 19<sup>th</sup> day of August 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Asharam Ahirwar  
S/o Shri Bansilal Ahirwar  
Junior Gestatenater Operator  
P&T, Audit office  
Bhopal (MP).

Applicant

(By advocate Shri Deepak Panjwani)

Versus

1. Comptroller and Auditor General of India  
New Delhi.
2. Director General of Audit  
Posts and Telecommunication  
Civil Lines, Delhi-54
3. Deputy Director of Audit  
P&T Audit Office  
Bhopal.
4. In charge Senior Audit officer  
P&T Audit Officer  
Bhopal.

Respondents.

(By advocate Shri P.Shankaran)

O R D E R

Bv Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following directions:

- (i) Quash the impugned order Annexure A1.
- (ii) Direct the respondents to pay back the amount deducted on account of Annexure A1 with 18% interest and further not to reduce his salary.



2. The brief facts of the case are the applicant who was appointed as Group-D on 17.9.1992 was promoted to the post of clerk in the scale of Rs.775-1150. By order-dated 11.12.98, the applicant was promoted to the post of Junior Gestatener Operator in pay scale of Rs.2650-4000. Accordingly, on the basis of FR 22 his pay was fixed at Rs.2975/- by order dated 29.12.1998. However, for the month of July 2004, the applicant was paid Rs.3150/- as salary in place of Rs.3370/-. Similar deduction of Rs.582/- was made in August 2004. These deductions were made without any reason. Against these deductions, the applicant made a representation (Annexure A9). On 10.9.2004, respondent No.4 issued an order to the effect that the post of Gestatener on account of being promoted from clerks after 1996 was merged to the post of clerk and the pay scales of both the posts have been made equal. The impugned order suffers from the vice of illegality. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that according to the order dated 29.12.98 (Annexure A8) the applicant was promoted to the post of Junior Gestatener Operator in the pay scale of Rs.2650-4000 and his pay was fixed at Rs.2975/-. But without affording any opportunity of hearing, his pay was reduced vide impugned order, which is apparently against rules. Learned counsel of the applicant has drawn our attention towards 2003 (3) ATJ 267 -M. Vasudevan Nair Vs. Chief Postmaster General, Kerala Circle, decided by CAT, Ernakulam Bench, which supports the case of the applicant. The learned counsel further argued that the action of the respondents is apparently against rules and law. Hence the applicant is legally entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that as per Govt. of India, Ministry of Finance OM dated 12.2.2001, a revised pay scale has been introduced corresponding to the pre-revised merged pay scale of Rs.775-1150 and it has been decided to introduce a new elongated pay scale to be designated as S-2A pay scale of Rs.2610-4000 as replacement of the pre-revised pay scale of Rs.775-



1150 and next higher scale of Rs.800-1150. The feeder post of Dafty and promotional post of JGO are to be treated as merged to constitute one grade in the hierarchy and inter promotions are not to be allowed. If inter promotions are to be allowed, the same is to be ignored for pay fixation purposes. Hence the pay fixation benefits should not be allowed in cases of promotions after 1.1.96 from the post of Dafty to JGO. In compliance with the above orders, the pay of applicant was re-fixed at Rs.2850/- in the revised scale of pay of Rs.2610-4000 and a recovery of Rs.12,891 was to be made being overpayment drawn from December 1998 to April 2004 in 40 installments @ Rs.333 per month. However, revised instructions were received vide letter dated 18.11.2004 that the recovery may be effected only for the period from 12.2.2001 i.e. the date of issue of the order introducing S2A pay scale. As such the amount of excess payment made to the applicant was reduced from Rs.12891 to Rs.8376/-. The balance amount of Rs.7044 i.e. Rs.8376 minus Rs.1332/- is yet to be recovered from the applicant in 35 installments at the rate of Rs.195 per month. Therefore the recovery was ordered at the rate of Rs.195/- per month instead of Rs.333/- earlier fixed. The action of the respondents is perfectly legal and justified. Hence this OA deserves to be dismissed.

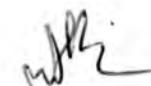
5. After hearing the learned counsel for both parties and carefully perusing the records, we find that according to the Annexure A8 order of the respondents, the applicant was promoted to the post of Junior Gestatener Operator in the pay scale of Rs.2650-4000 and his pay was fixed at Rs.2975/-. Subsequently, by impugned order dated 10.9.2004 it was decided by the respondents that the pay scale of Gestatener Operator and Dafty have become equal. The applicant cannot be given the benefit of promotion from the post of Dafty to the post of Gestatener. Learned counsel of the applicant has drawn our attention towards 2003 (3) ATJ 267 in which it is held that "Fundamental Rules, Rule 22(1)(a)(i)-Pay Scale – Promotion – Applicant promoted from the post of ASRM to HSG-I-After his promotion the pay scale of



both the posts got merged into one-whether it shall affect the applicant's pay fixation – No – Impugned order proposing to recover over payment quashed." The argument advanced on behalf of the applicant that the applicant's pay cannot be reduced and further this case is squarely covered by the aforesaid order of the CAT, Ernakulam Bench seems to be legally correct.

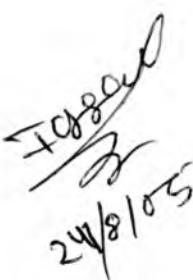
6. Considering all facts and circumstances of the case, we are of the considered opinion that the OA deserves to be allowed. Hence the OA is allowed and the impugned order Annexure A1 is quashed. The respondents are directed to grant all consequential benefits to the applicant. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

aa.

पृष्ठांकन से ओ/व्या..... जवलपुर, दि.....  
प्रतिलिपि आवेदितः—  
(1) सचिव, उच्च न्यायालय चान्द एवेरिंग्सन, जवलपुर  
(2) आवेदक श्री/श्रीमती/स्त्री..... दो राजसभा  
(3) प्रत्यर्थी श्री/श्रीमती/स्त्री..... दो राजसभा  
(4) विधायक, दो राजसभा, जवलपुर न्यायालय  
सूचना एवं आवश्यक वार्तावाही हेतु  
उपर रजिस्ट्रेशन  
Dr. Panjwani PV 28  
P. Shan Karan PV 28  
PV 28

  
24/8/05