

Central Administrative Tribunal, Jabalpur Bench

Original Application No. 314/04

Jabalpur this the 27th day of January, 2005.

Hon'ble Mr.A.K. Bhandari, Administrative Member
Hon'ble Mr. Madan Mohan, Judicial Member

Avinesh Chandrawanshi
S/o Shri Chitresh Chandrawanshi,
Aged about 46 years, working as
Painter in Postal Store Depot, Bhopal
(MP)

Applicant.

(By Advocate – Ku. M.Dadariya)

Versus

1. Union of India, Ministry of
Communications, Department of
Posts, Through : Its Secretary, Dak
Bhawan, Sansad Marg,
New Delhi.
2. Chief Post Master General,
Madhya Pradesh Circle,
Bhopal(MP).
3. Superintendent,
Postal Stores Depot,
Bhopal (M.P.).
4. Shri Gunwant Gajanan Virulkar,
Painter, C/o Manager, Mail Motors
Service, Nagpur-440 001.

Respondents

(By Advocate – Shri S.P. Singh)

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ORDER

By A.K. Bhandari, Administrative Member -

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:-

I. That the respondents may kindly be directed to award the time scale of pay of the post of Painter to the applicant and revise his scale as revised time to time for the post of Painter making proper fixation of the applicant w.e.f. 28.11.1980 under the scale of pay Rs.260-350, w.e.f. 1.3.1986 under the scale of pay Rs.950-1400, w.e.f. 1.1.1996 under the scale of pay Rs.3050-4590 and on completion of 16 years of service under the scale of pay Rs.4000-6000 w.e.f. November, 1996 as given to respondent no.4 who is working in the cadre of painter.

II. Further the respondents be directed to make the fixation under the higher scale of pay Rs.4500-7000 on completion of 26 years of service w.e.f. November, 2006.

III. The respondents be further directed to make the payment of arrears of salary after due fixation under relief clause (1) along with interest at the rate of 10% per annum thereon.

IV. The respondents may kindly be directed to give all the benefit to the applicant admissible to the post of Painter.”.

2. The brief facts of the case are that the applicant was initially appointed as Painter in the pay scale of Rs.210-270 in the newly sanctioned post with effect from 28.11.1980 vide order dated 18.12.1980 (Annexure-A-1) issued by the Superintendent Madhya Pradesh Division Bhopal. He was confirmed in this post vide order dated 17.6.1988 (Annexure-A-2) in Postal Stores Depot because the post stood transferred to Postal Stores Depot Bhopal w.e.f. 5.9.1986. It is stated that on completion of 16 years of service,

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he was given 'Kramonnti' and he has now completed 24 years of service working as Painter, which is under category of skilled artisan. He has, however, been treated discriminately and has been placed under the lesser scale of pay which is not admissible for the post of Painter. Therefore, he pressed for fixation of his pay. He alleges that the respondents have been discriminatory in granting him Painter's scale which has been granted to respondent no.4. He has given detailed statement of the pay, increments and pay on 16 years time bound promotion of respondent no.4, as also his own similar details, to support his plea of discrimination. To prove his point, he has annexed copy of the appointment order dated 5.9.1983, fixation under revised pay scale dated 17.7.1987, and fixation order in the higher scale of pay on completion of 16 years of service dated 1.2.2001 of Shri G.G.Virulkar, respondent no.4 (Annexures A-3, A-4 and A-5 respectively). He further states that he has filed various representations pointing out this disparity but without giving him any response the matter regarding correct fixation remains unresolved. Giving details, it is stated that on 11.10.2001 the Superintendent, Railway Mail Service, MP Division, Bhopal corrected his scale of pay wrongly mentioned in the service book as Rs.210-290 to Rs.210-270 as mentioned in his appointment order dated 18.12.1980, and also stated that he was in fact appointed as a Mail Guard and that the correct pay scale of Mail Guard is Rs.210-290. Intimation of this was not given to the applicant but he came to know about it from the perusal of his service book. More so, even though it is claimed that he was appointed as a Mail Guard, he was discharging the duties of a Painter, which he still continues today and he has rightly felt that his comparison should have been from the post of Painter's pay scale, which has not been granted to him. In fact, after completion of 26 years of service as Painter, he is expecting one time

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bound promotion in the correct scale of pay of Painter, exemplifying by him by comparing the pay scale of respondent no.4. By not acceding his request accordingly the applicant is facing humiliation amongst the employees at one place. With the wrong facts of his case i. e. appointment as Mail Guard and further progress in that cadre even though he was really appointed as Painter and should have been fixed in the scale of Painter and given increment as well as ACP in painter's cadre, the Superintendent, Postal Stores Depot, Bhopal wrote to the Chief Post Master General, M.P. Circle Bhopal vide his letter dated 26.12.2002. It is alleged that no intimation about this correspondence was given to him. He is not aware of these developments and he did not get the opportunity to clarify the correct position to the higher authorities even though in his repeated representations he has been telling his immediate superiors that his fixation as Mail Guard, as stated above, is wrong. Since his request was wrongly interpreted, the same was rejected vide letters dated 22.10.2003 and 15.12.2003 (Annexures A-8 and A-9 respectively) written by the Superintendent, Postal Stores Depot, Bhopal and Assistant Accounts Officer, Postal Accounts, Bhopal. In this back ground, the applicant has filed this O.A.

3. The respondents have submitted their detailed reply wherein it is stated that the application is based on false pretext and grounds inasmuch as the post of Painter in Railway Mail Service, MP Division Bhopal was created in the pay scale of Rs.210-290 vide order dated 23.4.1980 and as per the guidelines given in order dated 12.2.1978, copies of which are cited as Annexures-R-1 and R-2 respectively. Further, that the post of Painter was created in Group-D in the same pay scale according to File No.ME-1/318, copy of which is annexed as R-3. That while issuing the appointment order

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of the applicant, a mistake was made in mentioning the pay scale as Rs.210-4-250-EB-5-270 instead of scale of pay of Rs.210-4-226-EB-4-250-EB-290. It has been approved by the competent authority. Since the initial pay and increments were indential in both these pay scales, the applicant was not adversely affected. He has not been affected adversely even today. Subsequently, the post of Painter was transferred from RMS Division to Postal Store Department, Bhopal along with the incumbent on 1-8/9.1986 as is clear from Annexure-R-1. Further that in a letter on the same subject dated 5.9.1986 (Annexure-R-4) also the pay scale of this post is shown as Rs.210-290. Therefore, it is clear that a mistake was made while mentioning the pay scale of the applicant wrongly in the appointment order, which has subsequently been corrected in the series of correspondence and due to this inadvertent mistake, the applicant cannot take advantage and claim parity with the respondent no.4. It is further stated that after above correction, the applicant has been given benefit of revised pay scale on 1.1.1986 and 1.1.1996 in the correct pay scales. His fixation orders are placed at Annexures R-6 and R-7. Also that, after introduction of Assured Career Progression Scheme, the applicant was given financial upgradation in the higher pay scale of Rs.2750-4400 vide memo dated 9.5.2001(Annexure-R-8). Further that the Dy. Director of Accounts (Postal) who is the authority regulating the pay scale/ fixation of pay etc. has also made it clear that the corresponding revised scale of pay i.e. Rs.825-1200 in respect of old pay scale Rs.210-270 is exclusively recommended for Mail Guard and Postman and not to any other cadre. The respondents vehemently opposed the parity with other Painters of the department. While saying that the applicant has wrongly been given the example about pay scale of Rs.260-350, as the said pay scale was given to Shri G.G. Birulkar, who was appointed as Painter

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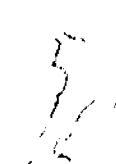
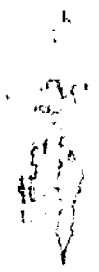

(Skilled) Tradesman in the said scale of pay of Rs.260-350, whereas the applicant was appointed as Painter in the scale of Rs.210-290 which is prescribed for Painter Group-D as per policy contained in letters dated 1.8.1986 and 7.9.1978 (Annexures-R-1 and R-2 respectively). This comparison is wrong and claim for parity is a figment of imagination.

4. Parties were heard at length. Two points are to be addressed by us. Firstly, whether the correction in the pay scale of the applicant from Rs.210-290 to Rs.210-270 was correct, and secondly whether the comparison of Painter's pay scale Rs.210-290 with that of Painter's pay scale of Rs.260-350 is correct.

5. After careful consideration, we find that the correction made by the respondents is correct because it is based as per policy contained in orders at Annexures-R-1 and R-2 and correction has been very clearly written in the service book of the applicant about which if he had any doubt, he should have raised the objection at the relevant point of time. In any case, the respondents cannot work on wrong premises once they came to know the mistake and we find no fault in making this correction.

6. On the second point, a close examination of the appointment orders of the applicant and respondent no.4 reveals that their appointments were on two different posts and claiming parity by the applicant on the basis of appointment order dated 5.9.1983 of respondent no.4 is misplaced. Whereas the applicant was appointed as a Painter specifically in the pay scale of Rs.210-270 as per prevalent policy on that day, the respondent no.4 was specifically appointed through a regular selection on the basis of names

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sponsored by the Employment Exchange, Nagpur, on the post of Painter (Skilled tradesman) in P&T Motor Service Nagpur in the pay scale of Rs.260-350. The respondents have clearly explained the nature of duties of these two respective posts in their reply and during the course of arguments the learned counsel for the respondents took pains to explain how respondent no.4 progressed up to his promotion on completion of 16 years in the pay scale assigned to him in his appointment order, which is entirely different from that of the applicant who secured his increments, revised fixation in revised pay scales on 1.1.1986 and 1.1.1996 and ACP promotion on completion of 12 years of service.

7. The learned counsel for the applicant has drawn our attention to Annexures-A-15, A-16 and A-17 which are testimonials issued to the applicant by superior authorities and tried to show how the concerned authorities have given testimonials as per duties of the Central Government Painters explained in Annexure-A-19 but they are not considered relevant while considering the prayer which has to be considered by us purely on the basis of rules and we find that the respondents have applied them correctly in the case of the applicant.

8. In view of the aforesaid discussion, the OA is dismissed without any order as to costs.

(Madan Mohan)
Judicial Member

(A.K.Bhandari)
Administrative Member

पृष्ठंकन सं. ओ/ज्या..... जलपुर, दि.....
 पतिलिपि

(1) मरिचक वनस्पति:—

(1) सचिव, उच्च न्यायालय, जयपुर
(2) आवेदक श्री/श्रीमती :-

(2) आवेदक श्री/श्रीमती: _____

(3) प्रत्यर्था श्री/श्रीमती/...

(4) वायुमार्ग, रेलमार्ग

सचिना एवं आवश्यात

कार्यकायिका कायिका हेतु

11/10/88

28/11

Issued
On 28-1-05
[Signature]

उप रजिस्ट्रार

Mr. Malti Dadar 9, P. 134
S. R. Singh P. 21-134