

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
(CIRCUIT SITTING AT BILASPUR)

Original Application No. 686/2001

Jabalpur, this the 7th day of April, 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

S.H.Aali (Syed Hasan Ali)
s/o late Shaukat Ali, aged 55 yrs.,
Supdt. Postal Store Depot, Raipur
P/R of Ward No. 7, Oonth Thana,
Post/Thana/Tehsil/Distt. Chhindwara.Applicant

(By Advocate: Shri S.T.H.Rizvi)

-versus-

1. Union of India through
Secretary,
Ministry of Communication,
Govt. of India, Deptt. of Posts,
Dak Bhawan, New Delhi.
2. The Director General,
Dept. of Posts, New Delhi.
3. The Chief Postmaster General,
M.P.Circle, Bhopal.
4. The Chief Post Master General,
Chhattisgarh Circle, Raipur.
5. The Director Postal Services
O/O the Chief P.M.G., C.G.Circle,
Raipur.
6. Shri D.D.Gupta, Accounts Officer,
O/O Chief P.M.G., C.G. Circle,
Raipur.
7. The Senior Postmaster, Raipur.Respondents

(By Advocate: Shri S.A.Dharmadhikari)

O R D E R

By Shri Madan Mohan, Member (J):

By filing this O.A. the applicant has sought the following main reliefs:-

- i) to quash the impugned order of the Sr.Postmaster Raipur (Annexure A/1).
- ii) to direct respondent no. 4 to fix the pay of the applicant at the stage of Rs. 8100/- w.e.f. 1.5.1998 in the revised scale of pay in view of submissions at para 6(iv).
- iii) to grant liberty to applicant to approach this Tribunal again in case he is still aggrieved by the orders of the respondent no. 4.



2. The brief facts of the case are that the applicant was working as Assistant Superintendent of Post Office (Tour) (hereinafter referred to as ASPO(T) in Bastar Division at Jagdalpur since 30.7.1996 in the scale of pay of Rs.1640-2900/- and his basic pay was then Rs. 2300/- w.e.f. 1.5.1997 in the old scale. The applicant was promoted to the post of HSG-I (Higher Selection Grade-I) in the scale of pay of Rs.2000-3200/- on regular basis and on approval by the D.P.C. The applicant joined his promotional post of Deputy Postmaster at Raipur Head/Office in HSG-I cadre on 3.3.1998 and requested the competent authority, choosing the date for fixation of pay under FR 22 (c) on promotion to be 1.5.1998. On the date of his promotion on 3.3.1998, the applicant was getting the old scale of pay in the ASPO's cadre and drawing Rs. 2300/- as basic pay as the order for implementation of revised pay were not issued then. Had he opted the date of fixation of pay under FR 22(c) from the date of joining straight way, without any further review, on accrual of increment in the pay scale of lower post, his pay would have been fixed on promotion under the provisions of FR 22 (c), by fixing his pay at the stage next above the notional pay arrived at by increasing pay in respect of the lower post by an increment at the stage at which such pay was accrued since the post was carrying the duties and responsibilities of greater importance than those earlier held by him in the ASPO'S grade.

2.1 Since the revised pay scale was not implemented on the date of his promotion on 3.3.1998, the applicant was entitled to get his old pay (Rs. 2300/- from 1.5.1997) to be re-fixed at the stage of the time scale of the new post above the pay in the lower post from which he was promoted i.e. 3.3.1998, his pay in the old scale of Rs. 2300/- would have been re-fixed to Rs. 2375/- and on 1.5.1998 to Rs.2450/- in the old scale. Consequent on the recommendations of the Fifth Central Pay Commission, HSG-I posts and posts of ASPO's have been placed in the same pay scale of Rs. 6500-10500/-, yet the duties and responsibilities of the HSG-I post than

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those held by the ASPO's have not been changed and still the post of HSG-I (Deputy Postmaster Raipur H.O.) is carrying higher responsibilities and as such the pay of the applicant was to be fixed under the provisions of FR 22(c) or FR 22(a)(i) and the basic pay of the applicant from 1.5.1998 in the revised pay scale should be Rs. 8100/- whereas on 1.5.1998 his pay was fixed to Rs. 7700/- only by Senior Postmaster Raipur. Thus the applicant has been put to very heavy loss of Rs. 400/- in the pay in the revised scale of pay every month.

2.2 Being aggrieved with the aforesaid action of the Senior Postmaster, Raipur, the applicant submitted a representation on 10.6.1998 to the respondents which did not agree with the submission of the applicant. Hence, the applicant further represented to the C.P.M.G., M.P. Circle, Bhopal on 31.10.1998 but no reply has been received from him as yet and instead one Shri D.D.Gupta, Accounts Officer, O/O C.P.M.G., Raipur intimated the applicant in response to his representation that his case was submitted to CPMG, Bhopal as per direction for clarification and further action in the case. Thereafter, the applicant preferred an appeal to the C.P.M.G., Raipur on 2.3.2001 which also did not give any reply as yet hence this original application has been filed before this Hon'ble Tribunal seeking the aforesaid reliefs.

3. Heard the learned counsel for both the parties at great length and we have perused the pleadings carefully.

4. Learned counsel for the applicant argued that the applicant was working as ASPO(T) Bastar Division, Jagdalpur w.e.f. 30.7.1996 in the pre-revised pay of Rs. 1640-2900/- and his basic pay was Rs. 2300/- w.e.f. 1.5.1997. It is further argued that the applicant was promoted to the grade of H.S.G.-I w.e.f. 3.3.1998 and his pay at that point was Rs. 2300/-. He was further promoted to the higher grade in the pay scale of Rs. 2000-3200/-. The applicant further



claimed that his pay scale should have been re-fixed to the point of Rs. 2375/- w.e.f. 3.3.1998 and at Rs. 2450/- w.e.f. 1.5.1998. It was further argued that both grades i.e. of ASPO(T) and HSG-I were merged into one grade in the revised pay scale of Rs. 6500-10500/- w.e.f. 1.1.1996. Therefore, the applicant claims that his pay should have been fixed at the pay point of Rs. 8100/- against Rs. 7700/- in the revised pay scale and thus has prayed for quashing of the impugned order dated 4.7.1998(A/1).

5. In reply, learned counsel for the respondents has argued that as per recommendations of the Fifth Central Pay Commission w.e.f. 1.1.1996, there was no separate pay scale for HSG-I, therefore, the claim of the applicant for fixation of his pay as per FR 22(c) read with FR 22(a)(i) is not tenable. Hence, the respondents did not fix his pay as per the aforesaid provisions; being identical pay scale of ASPO(T) and HSG-I i.e. Rs. 6500-10500/-. In such a case, the applicant's promotion ordered between this intermediary period cannot be termed as promotion. In other words, promotion order dated 3.3.1998 to the grade of HSG-I was considered as ineffective. It is further argued that the applicant was drawing his pay @ Rs. 7500/- as on 1.5.1997 in the revised pay scale of Rs. 6500-10500/- and his pay was revised w.e.f. 1.1.1996 at pay point of Rs. 7100/- with reference to his pay of Rs. 2180/- in the pre-revised pay scale of Rs. 1640-2900/- as on 1.1.1996 to the stage of Rs. 7000/- as on 1.5.1997 to the stage of Rs. 7500/- and so on. Thus he was not drawing old pay scale as on the date of his promotion or on the date of his joining on his promotion. Therefore, his pay was rightly fixed at Rs. 7500/- w.e.f. 1.5.1997 and at Rs. 7700/- as on 1.5.1998 and there was no violation of any rule in fixation of the applicant. His pay was regularised as per provisions of Fundamental Rules.



6. After hearing the learned counsel for the parties and perusing the record, we find in para 5(vi) of the O.A. that the applicant had made a representation to the Sr. Postmaster, Raipur on 10.6.1998 (A/9) which was rejected by the respondents. Thereafter applicant again represented to the Chief Post Master General, MP Circle, Bhopal on 31.08.1998 which has not been decided by the respondents. He further submitted in para 5(vii) of the O.A. that he had also made an appeal to the Chief Postmaster General, Raipur on 2.3.2001 (Annexure A-11) which has also not yet been decided by the respondents. In reply to para 5(vi) & (vii) of the O.A. the respondents have simply stated that the representation of the applicant has been rejected. They have not clarified whether after rejection of the first representation vide A/1, his another representation his another representation was rejected by the Chief Postmaster General and also whether the appeal preferred by the applicant on 2.3.2001 has been decided by the respondents.

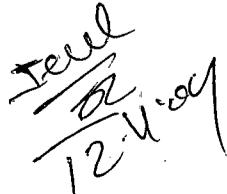
7. In this view of the matter, we are of the considered view that the respondents should first dispose of the representation of the applicant at Annexure A-10 and appeal dated 2.3.2001 (A-11) within a period of two months from the date of receipt of a copy of this order, by passing a detailed, reasoned and speaking order and communicate the same to the applicant. We do so accordingly.

8. With the above directions, the O.A. is disposed of. No costs.


(Madan Mohan)
Member (J)


(M.P. Singh)
Vice Chairman

मूलांकन सं. ओ/ज्या..... जबलपुर, दि.....
प्रतिलिपि O. 21/2001
 (1) संविध, उच्च व्यापार वार एकाडेमी, जबलपुर
 (2) आयोग श्री/श्रीमती/द्वारा..... के काउंसल STH Rizvi
 (3) प्रत्यर्थी श्री/श्रीमती/द्वारा..... के काउंसल SA Dharmaikhan
 (4) व्यापाल, केपआ., जबलपुर न्यायीर
 सूचना एवं आवश्यक कार्यवाही हेतु 
 द्वप्त दिनांक 12/4/04


12/4/04