

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 704/02

Jabalpur, this the 17th day of August, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

Jagdish Prasad Katare
S/o Late Sunderlal Katare
Inspector Post
R/o 98-F-1, Janki Nagar
Jabalpur.

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India through
Secretary, Ministry of
Communication
Department of Post
Sanchar Bhawan
New Delhi.
2. The Ministry of Personnel,
Public Grievances & Pension
(Dept. of Personnel & Training)
North Block, New Delhi.
3. The Chief Post Master General
Chhattisgarh Circle
Raipur.
4. Sr.Supt. of Post offices
Jabalpur.
5. Shri V.N.Padamshali
Inspector Post Office
P.O.Bhanupratappur
Dist.Jagdapur
Bastar (MP)

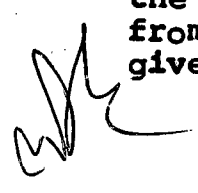
Respondents

(By advocate Shri P.Shankaran)

O R D E R (Oral)


By M.P.Singh, Vice Chairman

By filing this OA, the applicant has claimed the following reliefs:

- (i) Declare clause 8 of office memorandum dated 9th August, 1999 A-2 as unconstitutional.
 - (ii) Direct the respondents to consider and provide the pay scale of Rs.6500-10500 to the applicant from the date the private respondent has been given, with all consequential benefits.
- 


2. The admitted facts of the case in brief are that the applicant was initially appointed as postman on 16.3.1966. He passed a departmental examination for promotion to the post of postal clerk and was promoted as postal clerk, now re-designated as postal assistant, with effect from 31.7.1971. On completion of 16 years of service, he was given promotion under one Time Bound Promotion Scheme (OTBP) w.e.f. 31.7.87. He passed a departmental examination for the post of Inspector and accordingly he was promoted to the post of Inspector w.e.f. 28.12.87. According to the applicant, he has completed 24 years of service in the department, but he was not given financial upgradation under the ACP Scheme introduced vide memo dated 9th August 1999 (Annexure A2) on the ground that he has already got three promotions while in service. The main grievance of the applicant is that private respondent No.5 who is junior to him has been granted second ACP benefit after completion of 24 years of service, because this is his second promotion within 24 years of service and the ACP scheme of 1999 is applicable in his case. Aggrieved by this, the applicant is challenging the policy of Annexure A2 dated 9th August, 1999.

3. Heard the learned counsel for both parties. The learned counsel for the applicant has stated that private respondent No.5 is junior to the applicant but by virtue of getting 2nd financial upgradation, he is getting more pay than the applicant which is not in order. The respondents be directed to look into this aspect of the matter and make necessary revision to that effect in the Scheme. On the other hand, the learned counsel for the respondents has submitted that as per the ACP Scheme introduced by the Government dated 9th August, 1999, it was introduced to mitigate hardship in case of acute stagnation either in a cadre or in an isolated post keeping in view all relevant



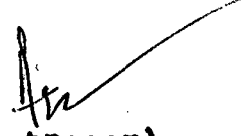
factors. The Government, as per the Scheme, decided to grant two financial upgradations as recommended by the Fifth Central Pay Commission and also in accordance with the agreed settlement dated September 11, 1997. Government employees in Group 'B', 'C' & 'D' on completion of 12/24 years of regular service are eligible to get the financial upgradation. Para 8 of Annexure A1 ACP Scheme provides that "financial upgradation under the ACP Scheme shall be purely personnel to the employee and shall have no relevance to his seniority position. As such there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay scale under the ACP Scheme."


4. We have given careful consideration to the rival contentions of the parties. We find that in the present case, the applicant was initially appointed as postman and has got three promotions. As per the ACP Scheme, he is not eligible for financial upgradation provided under the Scheme. As per the statement of the learned counsel for the respondents, private respondent No.5 was appointed as postal assistant and he was given the first promotion under OTEP on completion of 16 years of service and that private respondent No.5 has now become eligible for the second financial upgradation on completion of 24 years of service as provided under the Scheme. Although the applicant is senior in the grade of Inspector, he is not entitled for further promotion under the ACP Scheme whereas his junior private respondent No.5 has got only one promotion and, therefore, he has been granted the next financial upgradation. The contention of the applicant is that private respondent No.5 who stands junior to the applicant in the IPO cadre has been placed to the next higher scale of Rs.6500-10500 whereas the applicant being the senior-most is still in the pay scale of Rs.5500-9000.



Therefore, according to the applicant, this proposition does not appear to be just and equitable. According to him, no junior should get higher pay than his senior and there is no provision to take care of such situations in the present scheme of ACP.

5. In the facts and circumstances of the case, we deem it appropriate to direct the applicant to make a detailed representation to the respondents within 4 weeks. If he complies with this, the respondents are directed to consider the representation of the applicant and also consider the OA as part of the representation and take a decision within a period of six months from the date of receipt of such representation, by passing a detailed, speaking and reasoned order and inform the applicant accordingly.


(A.K. Bhatnagar)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

पूरांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अर्पित:-

(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर

(2) आवेदक श्री/श्रीमती/कु.....के काउंसिल S. Paul

(3) पत्न्या श्री/श्रीमती/कु.....के काउंसिल P. Shankar

(4) जज, जे.एम. जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued
On 23.8.04