

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT CAMP : BILASPUR

Original Application No.659 of 2000

Bilaspur, this the ^{19th} ~~18th~~ day of March, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri Madan Mohan - Judicial Member

Bhagwat Prasad Mishra, S/o late Shri B.P.Mishra,
aged about 53 years, Sub Divisional Inspector,
R/o Qr.No.9/476, Bharti Nagar, Bilaspur - APPLICANT

(By Advocate - Shri S.Paul)

Versus

1. Union of India through its Secretary,
Ministry of Communication, Department of Post,
New Delhi.

2. The Chief Post Master General, MP Circle,
Bhopal.

3. The Chief Post Master General, Raipur Region,
Raipur - RESPONDENTS

(By Advocate - Shri P.Shankaran on behalf of Shri B.da.Silva)

O R D E R

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicant
has claimed the following main reliefs -

"(ii) command the respondents to extend the benefit
of judgment passed by this Hon'ble Tribunal
in Dhyaneshwar Nandanwar and other similar
cases in favour of the applicant also.

(iii) Accordingly direct the respondents to provide
the benefit of FR 22(C) from the date of his
appointment to the post of IPO and then
provide all consequential benefits to the
applicant till date.

2. The brief facts of the case are that the applicant
was appointed as Postal Assistant on 21.7.1960. He was
promoted to the Lower Selection Grade (for short 'LSG') in
the pay scale of Rs.425-640 w.e.f.7.11.1984. Thereafter,
he appeared in the competitive examination of Inspector of
Posts Offices in the year 1986 and passed the same and was
posted as Office Supervisor on 13.11.1987 in the same pay
scale of Rs.425-640 (revised as Rs.1400-2300 consequent upon
implementation of IV Pay Commission's recommendations). On

his promotion, as Office Supervisor, his pay was fixed at Rs.1600/- applying the provisions of FR 22C (now FR 22I(a)(1)), which as per the respondents was wrongly fixed and hence they have re-fixed the pay of the applicant and recovered the excess amount paid to the applicant. Aggrieved by this, the applicant has filed this OA.

3. Heard both the learned counsel at a great length.

4. The learned counsel for the applicant has contended that the duties and responsibilities of the post of Inspector of Post are higher ^{than that of} LSG and it is a promotional post from the LSG. Therefore, the pay of the applicant was rightly fixed by the respondents by applying the provisions of FR 22-C. The respondents without affording any opportunity and putting the applicant to a notice have withdrawn the benefit of FR 22-C and have also recovered the excess amount. Thus, the principles of natural justice have ^{not} been followed. To support his contention, the learned counsel has relied upon the following decisions of this Tribunal ; (i) Dhyaneshwar Nandanwar Vs. Union of India & others O.A.No.367 of 1990 decided on 20.4.1993; (ii) Jagdish Prasad Katore Vs. Union of India & others, O.A.No.59 of 1995 decided on 6.12.1995, and (iii) Ram Avatar Dahayat Vs. Union of India & others O.A.No.750 of 1995 decided on 14.10.1997.

5. On the other hand the learned counsel for the ^{both} respondents has stated that the posts of Postal Assistant LSG and that of Inspector of Post Office were carrying the same pay scale of Rs.1400-2300 and in accordance with the Govt. of India's letter dated 15.5.1931 when two posts are in identical time scale, it is reasonable to hold that duties and responsibilities of these posts are not very different in nature. Therefore, no benefit of pay fixation under FR 22-C is permissible to the applicant.

6. We have considered the arguments advanced by the learned counsel for the parties. We find that the applicant has been promoted from the post of Postal Assistant in LSG to that of Inspector of Post after undergoing a selection, which

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means that the post of Inspector of Post carries higher duties and responsibilities. Moreover, the respondents in their reply have not specifically denied the fact that the duties and responsibilities of both the posts are ^{not} identical ^{in nature} and post of Inspector of Post is not a promotional post for the persons working in LSG. They have only stated in their reply that "it is reasonable to hold that duties and responsibilities of these posts are not very different in nature", which clearly shows that both the posts are not identical. Moreover, this Tribunal in the case of Dhaneshwar Nandanwar (supra) has already held that the posts of Inspector is a post carrying higher responsibility as the persons were appointed to the said post on the basis of competitive examination. The Tribunal accordingly had allowed the case of Dhaneshwar Nandanwar (supra) and quashed the order of recovery with a direction to continue the applicant to draw the pay as already fixed in accordance with the provisions of FR 22-C. We find that the present case is fully covered by the aforesaid decision in the case of Dhaneshwar Nandanwar (supra), therefore, the ratio laid down in the said case shall mutatis mutandis be applicable to the instant case.

7. In view of the facts mentioned above, we allow the present OA and direct the respondents to grant the benefit of FR-22-C (now FR 22 I(a)(1)) to the applicant at the time of his promotion to the post of Inspector of Post, and grant him all consequential benefits including refund of excess amount already recovered from the applicant. The respondents are directed to comply with these directions within a period of three months from the date of communication of this order. No costs.

Madan Mohan
(Madan Mohan)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman.