

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

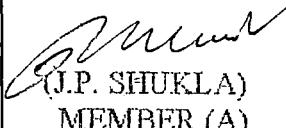
APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
	<p><u>15.01.2007</u></p> <p><u>OA No. 36/2005 with MA No. 28/2005</u></p> <p>Mr. C.B. Sharma, counsel for applicant. Mr. Gaurav Jain, counsel for respondents.</p> <p>Heard the learned counsel for the parties.</p> <p><u>ORDER RESERVED.</u></p> <p> (J.P. SHUKLA) MEMBER (A)</p> <p> (M.L. CHAUHAN) MEMBER (J)</p> <p>AH</p>

N IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 17th day of January, 2006

**ORIGINAL APPLICATION NO. 36/2005
WITH
MISC. APPLICATION NO. 28/2005**

CORAM :

HON'BLE MR. M. L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. J. P. SHUKLA, ADMINISTRATIVE MEMBER

Hazari Lal Mehta,
Postman,
New Dhan Mandi Head Post Office,
Kota.

By Advocate : Shri C.B.Sharma

... Applicant

Versus

1. Union of India
Through Secretary,
Department of Posts,
Ministry of Communication,
Dak Bhawan,
New Delhi.
2. Principal Chief Post Master General,
Rajasthan Circle,
Jaipur.
3. Sr. Superintendent of Post Offices,
Kota Postal Division,
Kota.

By Advocate : Shri Gaurav Jain

... Respondents

ORDER (ORAL)

The applicant has filed this OA thereby praying
for the following relief :

"That the respondents decision to give effect
payment of severance amount w.e.f. 17.12.98 be
quashed and set aside being discriminatory and
respondents be directed to reconsider the

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matter and to give effect for payment of severance amount w.e.f. 1.1.96 instead of 17.12.98 by modifying order dated 17.12.98 (Ann.A/5) and further made payment of amount of Rs.20,000/- to the applicant towards severance amount on account of 17 years service rendered as Extra Departmental Staff prior to regularisation on the regular post alongwith interest at market rate."

2. Briefly stated, the facts of the case are that the applicant was initially appointed as Extra Departmental Mail Career/Delivery Agent at Khanda Sehrol Branch Post Office, Kota Postal Division, on 10.6.80. Subsequently, the applicant was appointed as Postman on the regular post vide order dated 17.11.97 (Ann.A/3) and joined the said post on 20.11.97. It is the case of the applicant that the respondents issued a memorandum dated 17.12.98 thereby revising the allowances of the Extra Departmental Agents from different dates as per policy decision dated 17.12.98 (Ann.A/5). The grievance of the applicant is regarding Severance Amount on Absorption on Regular Basis, which amount has been made payable to the employees w.e.f. the date of issuance of the order, whereas some other benefits have been extended to the EDAs from difference dates prior to issuance of the OM dated 17.12.98. It is on the basis of these facts, the applicant has filed this OA thereby stating that there is no justification for the respondents to give effect to the OM w.e.f. 17.12.98 and the respondents should be directed to allow the enhanced allowances w.e.f. 1.1.96. The applicant has further pleaded that he has rendered more than 17 years of service as EDA and in lieu of the service rendered by him as EDA, nothing has been paid to him, whereas the persons similarly situated, who have been absorbed in regular appointment after cut off date

i.e. 17.12.98, were got a sum of Rs.20,000/- as Severance Amount. It is on the basis of these facts, the applicant has filed this OA thereby praying that the respondents may be directed to reconsider the matter and to give effect for payment of Severance Amount w.e.f. 1.1.96 instead of 17.12.98 by modifying the order dated 17.12.98 (Ann.A/5).

3. The applicant has also filed MA 28/2005 for condonation of delay thereby stating that though the applicant had to approach this Tribunal in the year 1998 or 2000 but the order in question was never circulated by respondent No.3 among the staff and when the said circular came to the notice of the applicant, as some of the EDAs had received Severance Amount on the recommendations of the Committee, it is only thereafter that the applicant collected the rules and approached respondent No.3 and thereafter this Tribunal for filing this OA.

4. Notice of this OA was given to the respondents, who have opposed the MA for condonation of delay and have also opposed the claim of the applicant on merit. It is stated that as per recommendation of the Talwar Committee on certain issues like arrears of increment in pay by 3.25 times, TRCA, Leave, Ex-Gratia Gratuities, Office Maintenance Allowance, Severance Amount on Retirement/Death, Severance Amount on Absorption etc., decision was taken by the Government and as per orders of DG Post New Delhi letter No.26-1/97 PC and ED Cell dated 17.12.98, the Severance Amount was made available on absorption on promotion regularly in the department Grade-D or Postman/PA cadres after completion of 15 years of regular service in ED cadres and this decision of the Government was applicable w.e.f. the date of

issue of these orders i.e. 17.12.98. According to the respondents, the applicant was promoted to Postman cadre on 20.11.97, thus, his case does not come under the purview of the orders and hence the applicant is not entitled to get the benefit of Severance Amount payment of Rs.20,000/- as these orders were effective w.e.f. 17.12.98. The respondents have further stated that the contention raised by the applicant that the order dated 17.12.98 (Ann.A/5), never circulated among the staff and when he came to know about the same, he approached respondent No.3 through letters (Anns.A/1 & A/6) dated 9.9.94 and 4.2.2005 which were said to have been sent by the applicant, *it* is stated that the said contention raised by the applicant cannot be accepted on the face of Anns.A/1 and A/6 as these documents did not bear the signature of the applicant, neither the applicant could produce the received copy of these documents. Thus, according to the respondents, the OA is time barred.

4. The applicant has not filed any rejoinder.

5. We have heard the learned counsel for the parties and have gone through the material placed on record. We are of the view that the present OA is liable to be dismissed as the same has been filed beyond the period prescribed under Section 20 & 21 of the Administrative Tribunals Act, 1985 (for short, the Act). Further, the applicant has also not made out any case in terms of Section-21(3) of the Act for condonation of delay. The contention of the applicant that he came to know about the order dated 17.12.98 (Ann.A/5) only when some of the employees, who were similarly situated, were granted Severance Amount on their absorption on regular basis and thereafter he made representation to the

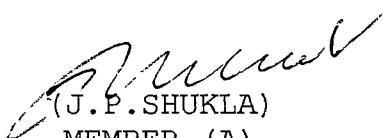
authorities for grant of such amount cannot be accepted on the face of Anns.A/1 & A/6. The so-called representations made by the applicant to the authorities did not bear the signature of the applicant. The applicant has not placed on record any contemporaneous record to suggest that the so-called representations (Ann.A/1 & A/6) were served upon the respondent department especially when the respondents in the reply have categorically stated that the said representations did not bear the signature of the applicant, neither he could produce the received copy of these documents. Thus, reliance placed by the applicant on these documents for the purpose of condonation of delay cannot be accepted. Thus, according to us, the OA is liable to be dismissed on this ground alone.

6. Even on merit, the applicant has got no case. It is not in dispute that on the recommendations of Talwar Committee on certain issues like Arrears of Increment in Pay by 3.25 times, TRCA, Leave, Ex-Gratia Gratuities, Office Maintenance Allowance, Severance Amount on Retirement/Death, Severance Amount on Absorption etc. policy decision was taken by the Government as per order dated 17.12.98 (Ann.A/5). In this case we are concerned with Severance Amount on Absorption on Regular Basis. At this stage, it will be useful to quote para-2(g) of the said policy decision, which thus reads as under:

"(g) SEVERANCE AMOUNT ON ABSORPTION ON REGULAR BASIS :- Severance Amount of Rs.20,000/- (Rs.Twenty thousand only) may be paid to an ED Agent who has been absorbed on regular basis against a departmental post after 15 years of continuous service as ED Agent. This provision will be effective from the date of issue these orders."

Thus, from the reading of the aforesaid policy decision it is clear that this provision has been made effective from the date of issuance of the order. It is not in dispute that the orders were issued on 17.12.98. It is also not in dispute that the applicant stood already absorbed prior to the cut off date i.e. 17.12.98. Thus, according to us, the applicant is not entitled to the Severance Amount of Rs.20,000/- in view of the provisions contained in para-2(g) of the order dated 17.12.98. From the perusal of the OM dated 17.12.98 it is evident that different dates have been mentioned for extending the benefit for the purpose of Leave, Ex-Gratia Gratuity, Office Maintenance Allowance, Severance Amount on Retirement/Death etc., whereas in respect of some items the benefit has been extended from the date of issue of the orders i.e. in the case of Ex-Gratia Gratuity, Severance Amount on Absorption on Regular Basis, whereas in respect of some items the benefit has been extended from 1.3.98 (Time Related Continuity Allowance) and w.e.f. 1.7.98 (Leave). Now the question arises for our consideration is whether it is permissible for this Tribunal to interfere with the policy decision so arrived at by the authorities in respect of granting the benefit from different dates. The matter on this point is no longer res-integra. The Apex Court in the case of State of Punjab and Ors. v. Amar Nath Goyal and Ors., 2005 (2) SC SLJ 177, has held that fixing of a cut off date for giving the benefit of enhanced gratuity after considering the financial constraints cannot be said to be discriminatory, irrational or violative of Article 14 of the Constitution and it is permissible for the government to extend the benefit from future date keeping in view the financial constraints.

7. For the foregoing reason, we are of the view that the applicant has not made out any case for the grant of relief in his favour. Accordingly, the OA as well MA for condonation of delay are dismissed with no order as to costs.



(J.P.SHUKLA)
MEMBER (A)



(M.L.CHAUHAN)
MEMBER (J)

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