

(11)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

18.1.2007

OA 56/2005

None present for applicant.
Mr. Gaurav Jain, counsel for respondents.

Learned counsel for the respondents submits that he has filed additional affidavit in compliance of the order dated 7.12.2006.

Let the matter be listed on 15.3.2007.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

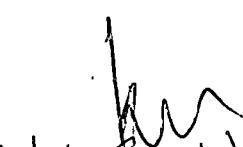
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15.3.2007

Mr. D.P. Sheoran, Counsel for applicant
Mr. Gaurav Jain, Counsel for respondents

Heard. The OA is ~~dismissed~~ ^{in disposal} by a separate order, for the reasons dictated therein.


(J.P. Shukla)
M(A)


(Kuldip Singh)
V-C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 15th day of March, 2007

ORIGINAL APPLICATION No.56/2005

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. J.P.SHUKLA, ADMINISTRATIVE MEMBER

Sube Singh
s/o Shri Mam Chand,
aged about 40 years,
r/o Village and Post Pharat,
Distt. Jhunjhunu,
EDBPM at post Office, Pharat,
Distt. Jhunjhunu.

.. Applicant

(By Advocate: Shri O.P.Sheroran)

Versus

1. Union of India through Secretary,
Department of Posts,
Ministry of Communication and Telegraph,
New Delhi.
2. The Post Master General,
Rajasthan (West Region),
Jodhpur.
3. The Superintendent of Post Offices,
Jhunjhunu Distt.
Jhunjhunu.

.. Respondents

(By Advocate: Shri Gaurav Jain)



O R D E R (ORAL)

The applicant has filed this OA seeking relief that respondents may be directed to correct/modify the order dated 19th July, 2004 in respect of the applicant and place the applicant in II TRCA w.e.f. 14th July, 1997. It is also prayed that the respondents may be further directed to pay arrears of pay and allowances.

2. The order dated 19th July, 2004 has been filed on record which is Ann.A4, according to which, consequent upon increase of workload of certain Gramin Dak Sevak Branch Postmasters (GDSBPMs) beyond 75 points, the incumbents were placed under II TRCA in the pay scale of Rs. 1600-40-2400 w.e.f. 1.7.2004. The grievance of the applicant is that he was initially appointed on the post of Extra Departmental Mail Carrier (EDMC) w.e.f. 16th October, 1976 at Branch Post Office, Pharat under Post Office, Kajara, Distt. Jhunjhunu.

Subsequent to retirement of EDBPM, Pharat, Shri Dev Karan on 18th July, 1989, the applicant was absorbed as EDBPM and the extra work of earlier post of EDMC continued and the old pay scale of the applicant was protected vide Ann.A1. Over the years the work of Post Office increased and inspection was carried out on annual basis from 1996 onwards and the inspecting officer found that the work of the applicant is above 75 points and recommended to the respondents to



increase pay and allowances of the applicant from the year 1996 onwards. However, despite several reminders by the applicant, neither the report of the inspecting officer was considered nor the allowance was increased. The respondents increased pay and allowances of the applicant only w.e.f. 1st July, 2004 vide Ann.A4. The applicant claims that the order Ann.A4 is illegal to the extent that since the applicant had become entitled for placement in II TRCA w.e.f. 14th July, 1997, so he is entitled to the scale of Rs. 1600-40-2400 w.e.f. 14th July, 1997.

3. The respondents are contesting the OA. They have pleaded that the applicant was earlier working as EDMC and there was one Shri Dev Karan who was working as EDBPM. On retirement of the EDBPM, applicant was given dual charge of EDBPM on 19th July, 1997 and due to heavy loss, the post of EDMC, Pharat was abolished w.e.f. 19th July, 1989 vide Director, Postal Services, Jodhpur memo dated 18th October, 1989, which is Ann.R1. The matter regarding allowances to be paid to the applicant was referred to the Regional Office, Jodhpur who directed that pay of the applicant be protected vide Ann.R3. Accordingly, the applicant was re-appointed as EDBPM w.e.f. 19th July, 1989 and it was ordered that his pay shall be protected till the allowances of EDBPM exceeds his protected pay. Formal appointment order was also issued as EDBPM, Pharat.



Since there were some discrepancy in the calculation, which was detected later on, so recovery order was passed. Though, there was challenge, but the applicant has given up this relief when the OA was heard.

So far as non-revision of TRCA of the applicant is concerned, it is stated that the applicant was holding the post of GDSBPM, Pharat since 19th July, 1989. The annual inspection of the Branch Post Office was carried out by Shri Bihari Lal, Sub Divisional Inspector who collected the statistics of Pharat Branch Post Office for the purpose of revision of TRCA of the applicant and submitted proposal vide letter dated 26th July, 1997 as per Ann.R16. The Sub Divisional Inspector also noted in his inspection report that compliance of para 25 of the OBR of 1997 regarding revision of allowances is still pending. So that proposal was put up to the Superintendent of Post Office, Jhunjhunu and the Superintendent of Post Office called the accounts of all Branch Post Offices in which there is justification of increased including the Branch Post Office, Pharat. Meanwhile 25 more such proposals were received and they were put up to the Superintendent of Post Office, Jhunjhunu. A note was also put up to compare the figures of cash transactions of Post Offices including Pharat Post Office, but no order was passed on this note on the proposal dated 27.10.1997. Thereafter 40 more such proposals were called vide Ann.R/20.



However, meanwhile on the basis of recommendations made by Justice Talwar Committee on Extra Departmental Agents (EDAs) with regard to revision of their remuneration, orders regarding revision of allowances of EDAs and clarifications were received vide Ann.R.21. In view of above, since the formula or revision of allowances have been revised, as such all the Branch Post Office Accounts lying since last three year were returned without any revision in TRCA of the applicant. Thus, it shows that no revision in TRCA of any Branch Post Office was ordered in this Division.

Further proposal for revision of TRCA of the applicant was called for and the same was revised vide order dated 19th July, 2004 and the applicant was placed in II TRCA of EDBPM w.e.f. 1st July, 2004.

4. While the case was heard on 7th December, 2006, this Tribunal had asked the respondents to file affidavit as to how they justify for grant of increase in pay and allowance w.e.f. 01.07.2004 instead of back date, as claimed by the applicant. The respondents were further directed to place on record contemporaneous record on the basis of which order Ann.A4 has been issued. In compliance of the same, the respondents have filed additional affidavit. The respondents have simply stated that there is no provision of granting revision of TRCA from the back



date i.e. months/years as the figures of workload are based on 4 different months of the year and the proposal was prepared by the accounts department which was verified by the department and revision of TRCA of the applicant was granted on 19th July, 2004 w.e.f. 1st July, 2004.

5. We have heard the learned counsel for the parties and gone through the record.

6. Though vide order dated 7th December, 2006 this Tribunal had called upon the respondents to place on the contemporaneous record on the basis of which the revision in pay was made vide Ann.A4, but the respondents have not placed on record any previous order as to when the work load was increased. They have simply stated that there is no provision of granting TRCA from the back date. On the contrary, the learned counsel for the applicant has referred to document Ann.R-21 which deals with the subject of revision of allowances of ED Agents and contains certain clarifications on some points. One of such clarification is in the following manner:-

Points	Clarification
.....
Whether the increase in TRCA will be yearly and if so the date of increase may be clarified.	TRCA is applicable w.e.f 1.3.98. Annual increase henceforth will be termed as Future entitlement. Date



of future entitlement will be
on the 1st of the month
in which it falls due.

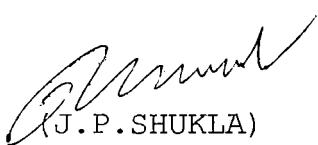
7. In this case, it seems that despite of the facts that the Sub Divisional Inspector assessed the work load of the Branch Post Office, Pharat but due to certain administrative reasons on the part of the respondents, the final order could not be passed and since the clarification issued by the department itself requires that TRCA is applicable from 1st March, 98, the annual increase has to be termed as future increment so the assessment should have taken place by 1st March, 98 onwards and annual increase should have been given to the applicant. The counter affidavit filed by the respondents themselves show that due to administrative reasons, the assessment could not be made, though the action remained pending with the office of Superintendent of Post Offices, Jhunjhunu for a period of three years. Thus, it is simply a lapse on the part of the respondents that they did not carry out the assessment of work load in time to grant future increment.

8. In these circumstances, we are of the considered opinion that the OA deserves to be allowed only to the extent that the department shall assess afresh the work load of the Branch Post Office, Pharat w.e.f. 1st March, 1998 as per the records available and if they

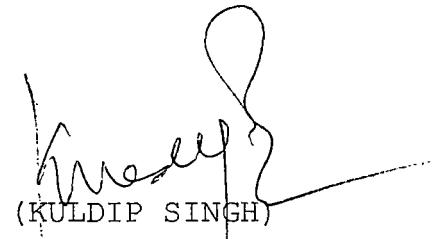
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found that there was increase of 25 points or more which renders the applicant entitle for a higher scale then the applicant shall be granted the higher scale w.e.f. the back date from which the work load had increased, as required under the rules. We further direct that this exercise shall be completed within six months from the date of receipt of copy of this order and if work load is found to be appropriate beyond the enhanced salary, the order Ann.A4 be suitably modified.

8. The OA is disposed of accordingly with no order as to costs.


(J.P. SHUKLA)

Administrative Member


(KULDIP SINGH)

Vice Chairman

R/