

Central Administrative Tribunal
Jaipur Bench, JAIPUR

OA.115/2006

This the 24th day of February, 2010

Hon'ble Shri M.L. Chauhan, Member (Judicial)
Hon'ble Shri B.L. Khatri, Member (Administrative)

Mr. Heera Lal Saini, S/o Sh. Moolchand Ji Saini, aged abouted 35 years, R/o Village Post Ramgarh Pachwar, Tehsil Laisot District Dausa, Rajasthan, Presently posted as E.D.B.P.M., Ganglyawas Post Office, Ramgath Pachwara, District Dausa,

...Applicant

(By Advocate: Shri Chandra Prakash Sharma)

- V E R S U S -

1. Union of India, Through Secretary to the Govt. of India, Department of Post, Sansad Marg, New Delhi.
2. Principal Chief Post Master General, Rajasthan Circle, Sardar Patel Marg, Jaipur,
3. Superintendent Post Offices, Jaipur Mouffssil, Shastri Nagar, Jaipur.

.....Respondents

(By Advocate: Shri D.C.Sharma)

O R D E R (Oral)

(By Hon'ble Shri M.L.Chauhan, M(J);

The applicant has filed this OA, thereby praying for the following reliefs:-

(a) That by appropriate order, directions, mandate respondents be directed to fix the applicant in T.R.C.A. 1600-40-2400 w.e.f. 24.3.2000 and allow the arrears of pay and allowances along with interest @ 18 % per annum without any further delay to applicant.

(b) That or in alternative if Hon'ble Tribunal think that applicant is only entitled to refix in T.R.C.A. 1280-35-1980 w.e.f. 24.3.2000 to 28.2.2006 which T.R.C.A. is prescribed to

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those E.D.B. P.M. who are working up to 3 hrs 45 mts. It may kindly be directed to respondents to refix the applicant on 1595 + DA in T.R.C.A. 1280-35-1980 by protecting his last pay drawn which was 1595 + DA on 24.3.2000.

(C) Any other relief which the Hon'ble Tribunal thinks just and proper in the circumstances of the case in favour of the humble applicant may also be allowed.

2. Facts of the case are that the applicant was initially appointed on the post of E.D. Packer now known as "Gram Dak Sevak" Packer at Ramgarh Pachwara in the pay scale of Rs. 1545-25-2020 w.e.f. 12.2.1991. It is admitted case that the post of Extra Departmental Packer at Ramgarh was abolished, ^{and} was redesignated as Gram Dak Sevak Branch Postmaster w.e.f. 24.3.2000 in the T.R.C.A of Rs. 1280-1980 + DA and the applicant was offered alternative appointment in terms of Memo. NO. H-199/PF-Gangliawas, dated 4.6.2001 (Annexure A-3). The applicant was appointed as Extra Departmental Branch Postmaster Gangliawas EDBO in account with Ramgarh Pachwara SO under Dausa HQ w.e.f. 24.3.2000. The grievance of the applicant is that while offering such appointment, he was granted T.R.C.A in the lower pay scale of Rs. 1280-35-1980 + DA and his pay which was initially protected by the authorities was withdrawn and he was not granted higher pay protection of last pay drawn by him in the higher T.R.C.A. Based on these allegations, the applicant has filed this OA, for the reliefs as prayed in Para 8. Further prayer of the applicant is that he is entitled to T.R.C.A. in the pay scale of Rs.

1600-40-2000 w.e.f. 24.3.2000 to 28.2.2006, although on the basis of his representation, the applicant has granted T.R.C.A w.e.f. 1.3.2006 vide annexure A-6 whereas the applicant was entitled to the higher in T.R.C.A. w.e.f. 24.3.2000. For this purpose the applicant has plead that he is entitled to higher T.R.C.A. as he is working more than 3 hrs in a day as such in terms of rule framed by the respondents he is entitled to such relief.

3. We have heard learned counsel for the parties, at length. Learned counsel for the applicant submits that he is not claiming relief regarding grant of higher T.R.C.A. 1600-40-2000 w.e.f. 24.3.2000 to 28.2.2006 in this OA and liberty may be reserved to him to agitate the matter by filing proper representation before the authorities.

4. In view of what has been stated above, we are not inclined to decide this issue. It will be open for the applicant to make representation in terms of observations before the appropriate authority within a period of one month from today. In case the applicant makes representation to the respondents, respondents shall decide the same within a period of three months from the date of receipt of a copy of this order, in accordance with the law and it is made clear that such consideration will be without prejudice to any contention relating to limitation or delay and latches.

5. As regards the protection of pay of the applicant when he was transferred and posted on account of abolition of post in terms of

Memo. Dated 4.6.2001, Annexure A-3, we are of the view that in terms of judgment rendered by the C.A.T. Ernakulam Bench in the case of **R.P.Harishikeshan Nair & Ors. 2009 (2) C.A.T. at page 281** whereby the Full Bench has held that "in respect of transfer from one post to another within the same recruitment unit but with different TRCA (i.e. from higher to lower), pay protection on the same lines as in respect of (b) would be available", the applicant is entitled to relief. The Full Bench has further held that the fact that the applicant was deployed on account of his own request or otherwise is immaterial for the purpose of the protection of pay. Thus in view of the decision rendered by the Full Bench as noticed above, the stand taken by the respondents that applicant is not entitled to pay protection as the applicant was redeployed voluntary can not be accepted. Accordingly, the applicant shall be entitled for protection of last pay drawn in the higher T.R.C.A. on account of deployment in terms of Annexure A-3. Accordingly the OA is allowed and respondents are directed to refix the pay of applicant in the aforesaid terms and make payment of arrear to the applicant on such fixation within a period of three months from the date of receipt of a copy of this order. The OA shall stand dispose of accordingly.


(B.L.Khatri)
Member (Administrative)

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(M.L.Chauhan)
Member (Judicial)