

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 296/2007

Date of order: 28.1.2010

CORAM:

**HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER**

Madan Mohan Sharma S/o Damodar Ji Sharma, by caste Sharma, aged about 60 years, Resident of H. No. 2744, 5th Crossing, Jatka Kua Ka Rasta, Jaipur, presently retd. from A.P.S. Gandhi Nagar Post Office, Jaipur City Dn. Jaipur.

...Applicant.

Mr. P.N. Jatti, counsel for the applicant.

VERSUS


1. Union of India through the Secretary to the Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Principal Chief Postmaster General, Rajasthan Circle, Jaipur-7.
3. Senior Superintendent Post Offices, Jaipur City Dn. Jaipur.
4. Sub-Postmaster Gandhi Nagar HQ, Jaipur-15.

... Respondents.

Mr. D.C. Sharma, counsel for respondents.

ORDER

(Per Hon'ble Dr. K.S. Sugathan, Administrative Member)




The issue involved in this Original Application is the payment of officiating allowances for the period in which the applicant discharged the functions of a higher post. It is seen from the

records that while working in the Gandhi Nagar Post Office, the applicant had officiated as Sub-Postmaster, Gandhi Nagar Post Office w.e.f. 31.08.2002 (AN) to 22.12.2003 (AN). The said officiating arrangement was on account of the retirement of the incumbent in the post of S.P.M., Gandhi Nagar. The applicant had made a representation for grant of officiating allowances for the said period. However, it was rejected by the respondents vide Annexure A/1 on the following ground:

".....that "as per recruitment rules, HSG-II officials having three years service are eligible for promotion to HSG-I cadre, for the purpose of officiating / adhoc promotion eligibility as per recruitment rules is to be kept in view. The representer was neither LSG norm based nor HSG-II norm based and no order for appointment in officiating capacity on HSG-I Post was ever issued. Thus, the representer is not eligible for drawal of officiating pay of HSG-I Post, though he had looked after the work of the post. The representation has been rejected by the DPS Jaipur."

Thus, it is seen that while the respondents do not dispute the officiating arrangement in the HSG-I post, they have refused to grant officiating allowances on the ground that the applicant was not eligible for promotion to the post in which he was officiating. They have also stated that no formal order of appointment in officiating capacity was issued.



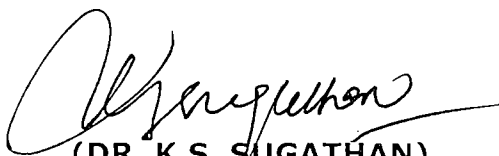
2. We have heard the learned counsel for the applicant Shri P.N. Jatti and the learned counsel for the respondents Shri D.C. Sharma. We have also carefully perused the records. During the course of the arguments, the applicant's counsel produced a copy of the order dated 27th February, 2007 passed by this Bench of the Tribunal in O.A. No. 371/2004 (M.L. Malvia vs. UOI

& Ors.), in which similar issue was disposed of with a direction to the respondents to grant officiating allowances admissible under FR 49. We have perused the said order and are of the opinion that the facts of the case are substantially identical. Having regard to the fact that the respondents have taken the additional work from the applicant for the period between 01.09.2002 to 22.12.2003 even though he technically was not eligible for being promoted to the post, there is no justification to deny the applicant the officiating allowances admissible under FR 49. The ground taken by the respondents that no formal order was issued for the officiating arrangement cannot be sustained in view of the fact that the said arrangement was within the full knowledge of the respondents. If they had serious objection to the said arrangement, they ought to have immediately cancelled the officiating arrangement.

3. In view of the above, we are of the opinion that the case of the applicant is squarely covered by the decision of this Bench of the Tribunal in O.A. No. 371/2004 (supra). The Original Application is, therefore, disposed of with the directions to the respondents to grant officiating allowances to the applicant as admissible under FR 49 for the period from 01.09.2002 to 22.12.2003. There is no order as to costs.



(DR. K.B. SURESH)
JUDICIAL MEMBER



(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER