

96

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

---  
ORDER SHEET

ORDERS OF THE TRIBUNAL

12.09.2011

OA No. 192/2008

Mr. P.P. Mathur, Proxy counsel for  
Mr. P.N. Jatti, Counsel for applicant.  
Mr. Muksh Agarwal, Counsel for respondents.

On the request of the proxy counsel appearing on  
behalf of the applicant, put up for hearing on 16.09.2011.

*Anil Kumar*  
(Anil Kumar)  
Member (A)

*K.S. Rathore*  
(Justice K.S. Rathore)  
Member (J)

ahq

*[Signature]*

*[Signature]*

16/09/2011

OA No. 192/2008

Mr. P.N. Jatti, Counsel for applicant.  
Mr. Mukesh Agarwal, Counsel for respondent.

Heard.

The O.A. is disposed of by a  
separate order on the separate-  
sheets for the reasons recorded  
therein.

*Anil Kumar*  
[Anil Kumar]  
Member (A)

*[Signature]*

*K.S. Rathore*  
[Justice K.S. Rathore]  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 16<sup>th</sup> day of September, 2011

**Original Application No.192/2008**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Aman Khan  
s/o Janab Ismail Khan,  
r/o Nili Haveli, Ladpura,  
Kota, presently working as  
BCR (SA) in the office of Kota  
in RMS Kota

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Raj. Circle, Jaipur
3. Senior Superintendent, Railway Mail Service, Jp Division, Jaipur. Opp. Radio Station, Mirja Ismail Road, Jaipur.
4. Mr. A.G.Bhati, SA (BCR) in the office of RMS, Kota.

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

This OA is preferred by the applicant for seeking writ, order or direction directing the respondents to step up his pay and allowances in comparison to Shri A.G.Bhati, junior official to the applicant, with all consequential benefits.

2. Brief facts of the case are that the applicant was appointed as Mail Man at S.R.O. R.M.S. Jaipur Division, Kota Junction and after passing the examination for Group-C cadre, he was appointed/posted as Sorting Assistant under RMS ST Division, Jodhpur w.e.f. 19.5.1981. The applicant was transferred to Jaipur Division on his request under Rule 38 of the Postal Manual Vol.IV, therefore, his seniority has been fixed below the junior most official in Sorting Assistant cadre in Jaipur Division and accordingly, his name was placed at the bottom in the Divisional Gradation list of Sorting Assistants.

3. At the time of pay fixation as per 4<sup>th</sup> Pay Commission report w.e.f. 1.1.1996, the applicant was working in Jaipur Division, whereas, the respondent No.4 Shri A.G. Bhati was working in ST Division, Jodhpur. The seniority of Sorting Assistant cadre is maintained Division-wise and at that time both the officials were serving in different divisions i.e. Jaipur Division and ST Division, Jodhpur. Therefore, their seniority could not be



compared as their seniority was counted according to the gradation list of Sorting Assistant cadre of respective division.

4. As per the revised pay Rules, 1997 applicable w.e.f. 1.1.1996, the pay of the applicant was fixed at the stage of Rs. 4400/- with date of increment September, 1996 to the stage of Rs. 4500/-, whereas pay of respondent no.4 was fixed to the stage of Rs. 4400/- with date of next increment February, 1996 to the stage of Rs. 4500/-, as such, the pay anomaly was arisen due to pay fixation w.e.f. 1.1.1996 but both the officials were serving in different divisions and seniority is maintained division-wise. The applicant was granted financial upgradation in the next higher scale under TBOP scheme on completion of 16 years of service on 10.9.1997 and his pay was fixed at Rs. 4750/- with date of next increment as 1.9.1998 whereas on completion of 16 years on 18.2.1998 the pay of respondent No.4 was fixed at Rs. 4875/- with date of next increment 1.2.1999, as he was drawing more pay than the applicant in the lower grade, prior to upgradation in higher pay scale under the TBOP scheme.

5. Aggrieved and dis-satisfied with the upgradation so far related to respondent No.4, the applicant submitted representation dated 19.9.2003 before respondent No.3 which



was forwarded to the Chief PMG, Rajasthan Circle, Jaipur by respondent No.3 for necessary action.

6. The competent authority after due consideration of representation of the applicant has intimated that respondent No.4 was working as Sorting Assistant on 1.1.1996 in RMS ST Division, whereas the applicant was working as Sorting Assistant in Jaipur Division, therefore, as per Note 6 of Rule 7 of the Govt. of India order no.4, revised pay rules, 1997, case of antedating is not permissible.

7. The case of the applicant was again reported to the Circle Office, Jaipur vide letter dated 10.8.2004, which was decided and the Circle Office intimated the applicant that the stepping up of applicant with his junior respondent No.4 is not permissible as respondent No.4 was getting more pay than the applicant since he was working in other Division.

8. As regard the relevant rules and regulations on stepping up of pay with junior on upgradation under TBOP scheme, it is clarified vide letter dated 23.9.2002 that as per FR 22 (1) (a) (1) the benefit of stepping up should be given w.e.f. the date of promotion of junior subject to fulfillment of the following conditions:-



- (i) Both junior and senior officers should belong to the same cadre and the post in which they have been promoted on a regular basis should be identical in the same cadre.
- (ii) The scale of pay attached to the lower and the higher posts in which they are entitled to draw pay should also be identical, and
- (iii) The anomaly should have arisen directly due to re-fixation of pay in respect of lower post. In other words, it should be ensured that there could have been no anomaly, had the pay of the junior person on promotion, been fixed under normal rules viz. under FR (1)(a)(1) direct. Also, the senior person should not have been in receipt of less pay than the junior or on in the lower post from time to time."

9. Thus, accordingly, pay anomaly has not arisen due to re-fixation of pay on the higher post under TBOP Scheme, but the same has arisen due to getting higher pay by respondent No.4 than the applicant prior to the re-fixation, since he was working in different division. Therefore, the applicant is not entitled for stepping up of his pay equivalent to Shri A.G.Bhati, respondent No.4

10. Financial upgradation granted under TBOP/BCR is merely placement in the higher scale of pay on completion of 16/ 26 years of service respectively and these are not promotions, which does not affect the seniority in the gradation lists.

11. We have considered the provisions of FR-22. Sub clause (3) regarding stepping up of pay of LSG officials promoted under 20% and Time Bound One Promotion Scheme provides as under:-



**"(3) Stepping up of pay of LSG officials promoted under 20% and Time Bound One promotion Scheme.-** It has been under consideration of this Department for some time past whether the stepping up of pay of senior before the introduction of Time Bound One Promotion Scheme introduced with effect from 30.11.1983, with reference to the pay of their juniors promoted under any of the above two schemes may be allowed.

2. The matter has been examined in depth in consultation with the Finance Advice (Postal) and it has been decided that the pay of the senior Lower Selection Grade Officials promoted under 20% LSG Scheme and those who are promoted under Time Bound One Promotion Scheme can be stepped up in consultation with IFA with reference to the pay of their juniors promoted to the post of LSG, provided all the conditions for stepping up of pay laid down in G.I. M.H.A., Dept. of Personnel and Administrative Reforms, OM No. 4(3)-82/Estt. (P,I) dated 15-2-1983 [Order 20 (c) above] and orders on stepping up of pay read with the provisions of this Directorate, Letter No.3-50/74-PAT, dated 21-11-1974 and 5.2.1976 are satisfied [G.I.Dept. of Posts, Letter No.2-70/87-PAP, dated the 22<sup>nd</sup> March, 1988]"

12. We have also carefully gone through the letter dated 6<sup>th</sup> October, 2009 by which clarification regarding stepping up of pay of senior officials at par with juniors in cases of anomaly arising out of fixation of pay on placement to TBOP/BCR scales have been given. Having examined the matter in consultation with Department of Personnel and Training, it is clarified that the placements under TBOP/BCR scheme are based on the length of service of the officials concerned and not on the criterion of seniority. Therefore, stepping up of pay of senior officials at par with their juniors is not admissible in cases of anomaly arising out on placement to TBOP/BCR scheme.



13. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record as well as the relevant rules and the clarification issued by the respondents from time to time, as discussed hereinabove, the anomaly arose only because respondent No.4 was getting higher pay in comparison to the applicant prior to refixation as he was working in different division. Therefore, the applicant cannot claim as a right to provide stepping up of pay and allowances in comparison to Shri A.G.Bhati, respondent No.4.

14. Thus, we find no merit in this OA and the OA being devoid of merit is hereby dismissed with no order as to costs.

*Anil Kumar*

(ANIL KUMAR)  
Admv. Member

*K. S. Rathore*

(JUSTICE K.S.RATHORE)  
Judl. Member

R/