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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

07.05.2012

OA No. 437/20110

Mr. C.B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

On the request of the learned counsel for the applicant,
list it on 05.07.2012..

Anil Kumar
(Anil Kumar)
Member (A)

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

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05/07/2012

OA No. 437/2010

Mr. C. B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard.

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

Anil Kumar
[Anil Kumar]
Member (A)

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 5th day of July, 2012

Original Application No. 437/2010

CORAM:

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

Jai Kishan Nagar,
s/o Shri Bhanwar Lal Nagar,
r/o 41, Tilak Nagar Colony,
Jhalawar and presently
working as Postal Assistant,
Jhalawar, Head Post Office,
Jhalawar.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through its Secretary,
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bhawan,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Jaipur
3. Post Master General,
Rajasthan Southern Region,
Ajmer.

4. Senior Superintendent of Post Offices,
Kota Postal Division,
Kota.
5. Post Master Jhalawar,
Head Post Office,
Jhalawar.

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

The short controversy involved in this Original Application is with regard to not allowing correct pay fixation on account of placement in higher scale on completion of 16 years' service after the recommendations of Sixth Pay Commission even after submitting revised option.

2. Brief facts of the case are that the applicant was initially appointed as Postal Assistant on 15.1.1992 and after completion of 16 years of service he was allowed the pay scale of Rs. 4500-7000 vide Ann.A/2 and his pay was accordingly fixed. Thereafter the applicant submitted revised option on 11.2.2008 for increment from



the month of February to July as the Sixth Pay Commission allowed yearly increment in the month of January and July and made request for re-fixation of pay as per increment in the month of July 2007/2008 vide representation dated 11.2.2008 (Ann.A/3). The applicant further made representation on 10.6.2009 (Ann.A/5) for change of date of increment from February to July and to extend benefits of pay fixation on account of placement in higher scale.

3. It is not disputed that Government of India, Ministry of Finance issued O.M. dated 5th July, 2010 permitting to revise the option upto 31.12.2010, if the option is more beneficial to the employee and in pursuance to that the applicant further submitted revised option on 27.8.2010 (Ann.A/8) and subsequently made request on 30.8.2010 (Ann.A/9) before respondent No.5 who is competent authority for pay fixation after revised option.

4. As the respondents have not extended the benefit in view of the option given by the applicant, therefore, by way of this OA, the applicant has prayed that the



respondents be directed to allow pay of Rs. 11010/- with grade pay of Rs. 2800/- as on 1.7.2008 and to accept revised option of the applicant with the further direction to refund Rs. 5708/- along with interest. It is also prayed that the respondents be further directed to revise pay and allowances of the applicant as per revised option and to extend arrears on account of revised pay and allowances after recommendations of Sixth Pay Commission with all consequential benefits.

5. Per contra, the learned counsel appearing for the respondents submitted that on completion of 16 years of qualifying service, the applicant was placed in the next higher scale of Rs. 4500-125-7000 under TBOP scheme from 25.2.2008 vide SSPO Memo dated 31.12.2007. It is further submitted on behalf of the respondents that the applicant was allowed to exercise his option for fixation of his pay under FR 22(1)(a)(i) within one month from 31.12.2007, but he did not exercise the option within one month. Therefore, his pay was fixed at the stage of Rs. 5500/- in the scale of Rs. 4500-125-7000 w.e.f. 25.2.2008 vide Ann.R/1 and his pay was revised to Rs. 10600+2800 = Rs.



13400 w.e.f. 25.2.2008 as per the Sixth Pay Commission recommendations (Ann.R/2). The applicant was allowed to draw next increment of pay w.e.f. 1.7.2009 at the stage of Rs. 11010+2800 = 13810. It is not disputed that recovery to the tune of Rs. 5207/- has been made effective from the applicant.

6. Having heard the rival submissions of the respective parties and upon careful perusal of the material available on record as well as the relevant provisions of law, we are not convinced with the submissions made on behalf of the respondents that the applicant was allowed to exercise his option for fixation of his pay under FR 22 (1) (a) (i) within one month from the date of issue of the Memo Ann.A/2 which has been issued on 31.12.2007. As per the respondents the applicant has not submitted his option and only able to submit his option vide Ann.A/3 on 11.2.2008 that too to the incompetent authority. Upon perusal of the Office Memorandum of Ministry of Finance dated 5th July, 2010 (Ann.A/7) it reveals that as per clause-5 of this memorandum the employees were permitted to revise their initial option upto 31.12.2010, if the option is



more beneficial to them. The applicant further submitted his option vide letters dated 27.8.2010 (Ann.A/8) and 30.8.2010 (Ann.A/9) to the competent authority in view of the memorandum dated 5th July, 2010. Thus the plea taken by the respondents that he has not exercised his option within the period of one month is meaningless as the respondents have themselves relaxed the provisions and extended the time upto 31.12.2010 to exercise their option and admittedly, the applicant has given option vide Ann.A/8 and A/9. Under these circumstances, we fail to understand as to how the respondents have not considered the option given by the applicant to change his option for grant of TBOP from 25.2.2008 to July, 2008.

7. Thus, in our considered view, the action of the respondents is contrary to the provisions of clause-5 of the Memorandum dated 5th July, 2010 (Ann.A/7).

8. Consequently, the OA deserves to be allowed and the respondents are directed to allow pay of Rs. 11010/- with grade pay of Rs. 2800/- w.e.f. 1.7.2008 as per the revised option given by the applicant vide Ann.A8. The

respondents are also directed to refund the recovery of Rs. 5207/- which has already been made from the applicant. The applicant, as per revised option, is also entitled for arrears on account of revised pay and allowances after the recommendation of the Sixth Pay Commission, with all consequential benefits.

9. In view of the observations made hereinabove, the OA stands disposed of with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

J.L. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/