

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/1438/2016

Date of order : 9.1.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

PRASANTA BHATTACHARJEE

S/o Bankim Ch. Bhattacharjee,
Working as Night Guard,
Under Koychar SO Post Master,
Burdwan,
R/o Vill & Post Koychar,
Dist. - Burdwan,
Pin - 713145.

...APPLICANT

VERSUS

1. Union of India, through:
The Secretary,
Ministry of Communication,
Dept. of Post,
Dak Bhawan
New Delhi - 110001
2. The Chief Post Master General,
Yogayog Bhawan,
C.R. Avenue,
Kolkata - 700012
3. Sr. Superintendent of Post Offices,
Burdwan Division,
Burdwan - 713145.

...RESPONDENTS.

For the applicant : Mr. A. Chakraborty, counsel
Ms. P. Mondal, counsel

For the respondents: Mr. P. N. Sharma, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member

Being aggrieved by non-payment of arrears in pursuance of the office circular dated 22.1.2015 issued by the respondent authorities, the applicant approached this Tribunal with the following reliefs :

"An order do issue directing the respondents to grant arrears with effect from 1.7.2011 in view of memo dated 22.3.2015."

2. Heard Mr.A.Chakraborty, Id. Counsel assisted by Ms.P.Mondal, Id. Counsel for the applicant and Mr.P.N.Sharma, Id. Counsel for the respondents, perused the pleadings and materials placed on record.

3. The issue raised by Mr.Chakraborty, Id. Counsel for the applicant is that despite of the office memorandum issued on 22.1.2015, the case of the applicant has not been considered in the manner of letter and spirit. As such the applicant approached before this Tribunal with the following arguments -

- i) that the applicant is getting remuneration as per memo dated 13.3.2015 w.e.f. 1.7.2011 but consequential benefits have not yet been released;
- ii) the applicant is entitled to get the arrear w.e.f. 1.7.2011 i.e. from the date of withdrawal of benefit of temporary status.
- iii) that after grant of temporary status the applicant was drawing salary like temporary/ regular employee.

According to the Id. Counsel non action of the respondent authorities for applying the circular issued is not in accordance with law. As such the applicant deserves to be allowed by granting the benefit as sought for.

4. It was further submitted by Mr.Chakraborty, Id. Counsel for the applicant that the applicant was initially appointed as Part time contingent paid Night Guard w.e.f. 19.4.1989. As per order dated 13.11.2000 the applicant became full time contingent paid staff. It was further submitted that conferment of temporary status was however, subsequently withdrawn vide order dated 30.6.2011 and the applicant was treated as full time contingent paid staff and his pay was fixed at Rs.5623/-. Being aggrieved with such action of the respondents the applicant approached this Tribunal in OA 87/2014 where this Tribunal disposed of the OA by directing the applicant to exhaust the departmental remedies and thereafter to approach this Tribunal.

Thereafter the applicant did make a representation before the Sr. Superintendent of Post Offices, respondent No.3 dated 30.4.2015 with a prayer to grant the benefit of pay as per office memorandum dated 22.1.2015 and to grant all consequential benefits.

5. The categorical stand of the respondents made in para 5 of the reply to the OA is that pay fixation was made in favour of the applicant on August 2015 on the basis of pay chart furnished by Hon'ble Court and Govt. of India time to time and as such question of re-fixation does not arise at present and the applicant is getting actual pay which he deserves. Ld. Counsel for the applicant however, submits that the representation made by the applicant is still pending as yet not disposed of and prays that a direction be given to the respondent authorities to dispose of the same. However, Mr.Chakraborty pressed on the issue of long pending payment of arrears and vehemently objected for sending the matter back to the department and prays for disposal of the matter.

6. Now the point is to be decided as to whether the benefit as enumerated in the office memorandum dated 22.1.2015 is to be given prospective or retrospective effect. Ld. Counsel for the respondents, however, submits that it should be given prospective effect as the benefits have already been given to the applicant and no such retrospective benefit in terms of the circular be granted to the applicant. Mr.Chakraborty, Ld. Counsel for the applicant has drawn our attention to the circular dated 22.1.2015 which specifically provides as hereunder -

"The revision as aforesaid in sub paras (i) to (ii) with take effect from 1.1.06."

If so, that being the position in our view the matter be sent to the department to settle the issue finally by keeping in mind the circular dated 22.1.2015 which is the instrument to give the arrears to the applicant.

7. As such we direct the respondent authorities, more particularly respondent No.3, to dispose of the long pending representation of the applicant keeping in mind the circular dated 22.1.2015 issued by the department itself, more particularly "effect of period of benefit" and pass a necessary order within a period of three months from the date of receipt of the order. The decision so arrived shall be communicated to the applicant forthwith.

Needless to mention that if the authority finds the applicant being entitled to the benefit as per the guiding principle in terms of the office order

dated 22.1.2015, then the same shall be extended to the applicant immediately.

8. With the above observation and direction the OA is disposed of. No costs.

(DR. NANDITA CHATTERJEE)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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