

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00732/2017

DATED THIS THE 23RD DAY OF OCTOBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

R.Y. Devashetti,
S/o Yallappa Devashetti,
Aged 52 years,
Working as Postmaster Grade III,
Dharwad HO – 580 001,
Residing at H. No. 826,
Vanasirinagar, Sottur,
Dharwad – 580 009

.....Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. Union of India,
By Secretary,
Department of Posts,
Dak Bhavan,
Sansad Marg,
New Delhi – 110 001
2. The Chief Postmaster General,
Karnataka Circle,
Bengaluru – 560 001
3. The Postmaster General,
North Karnataka Region,
Dharwad – 580 001.
4. The Director (Establishment),
Department of Posts,

Dak Bhavan,
Sansad Marg,
New Delhi – 110 001

....Respondents

(By Shri N. Amaresh, Senior Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

Heard. The matter in issue is very simple. The applicant claims for Rs. 90/- special pay granted to him for having passed the examination of Accountant and working as an Accountant even though he was selected as a Postal Assistant which both sides agree that is applicable to him.

2. From 15.05.1995 to 05.06.1998 he had worked in that position and therefore, under the rules in vogue at that point of time, he had become eligible to complete or to be held as completed 3 years process before any changeover happens as TBOP was granted to him on 05.06.1998.

3. The ground taken by the respondents is that on 22.04.1998, following the change in nomenclature in the pay commission report making 'special pay' into 'special allowance', this was not considered as part of the pay structure of the applicant and not granted to him and a policy decision taken on 22.04.1998 being precedent to 05.06.1998 would kill off the right of the applicant to continue this. Therefore the question is in a very small compass. What is the effect of this policy decision? This policy decision is said to be in response to the findings of the 5th Pay Commission which had changed the nomenclature of 'pay' into 'allowance' but then this change of nomenclature of 'pay' into 'allowance' was for a general purpose whereas this special pay was

granted to the applicant for having completed a special qualification and for having shouldered the special responsibility of an Accountant. That will stay with him regardless of any other decision taken in this regard. Therefore whether it be called as 'pay' or 'allowance' it will be eligible for him to count it as part of his pay structure as otherwise his legitimate expectation realized to him through effort will be prejudiced. The Government is estopped to claim otherwise and therefore this policy decision will not be applicable against the applicant. Therefore it is held that applicant is eligible to count this also as part of his pay structure. Mandate is issued to the respondents to correct it and pass appropriate order and grant the benefits within one month next. It is needless to say that the date of 22.04.1998 for the special purpose of Accountant has no relevance and cannot be treated as significant or crucial in any way.

4. The OA is allowed to this extent. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00732/2017

Annexure A-1: Copy of the order dated 12.05.1995

Annexure A-2: Copy of the order dated 14.05.1999

Annexure A-3: Copy of the letter dated 14.08.2000

Annexure A-4: Copy of the order dated 25.08.2000

Annexure A-5: Copy of the circular dated 10.01.2013

Annexure A-6: Copy of the representation dated 14.02.2013

Annexure A-7 Series: Copy of the orders dated 06.03.2013 and 05.03.2013

Annexure A-8 Series: Copy of the application dated 13.06.2012, letters dated 26.06.2013 and 17.07.2013

Annexure A-9: Copy of the order dated 27.06.2014 in OA No. 731/2014

Annexure A-10: Copy of the order dated 22.10.2014

Annexure A-11: Copy of the order dated 13.06.2016 in OA No. 35/2015

Annexure A-12: Copy of the order dated 11.01.2017

Annexures with reply statement

Annexure R1: Copy of the extract of rules regarding treatment of special pay for the purpose of fixation of pay on promotion

Annexure R2: Copy of the Office Memorandum dated 22.04.1998
