

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/256/2015

Date of Reserve: 08.02.2019

Date of Order: 13.03.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Binod Kumar Ray, aged about 67 years, S/o. Late Parameswar Ray, Vill/PO- Padani Pal, Via-Bhuinpur, Dist-Kendrapara – at present working as GDSMD, Padanipal BO in account with Bhuinpur, so UNDER Kendrapara HO, Kendrapara.

...Applicant

By the Advocate(s)-Mr.D.K.Mohanty

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Minsitry of Telecommunication, Dept., of Post, Dak Bhawan, Sansad Marg, New Delhi1.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist-Khurda.
3. Director of Postal Services, Office of the CPMG, Orissa Circle, Bhubaneswar, Khurda.
4. Superintendent of Post Offices, Cuttack North Division, Cuttack-753 001.
5. The Assistant Superintendent of Post Offices, Kendrapara Sub Division, Kendrapara.

...Respondents

By the Advocate(s)-Mr.G.R.Verma

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this O.A., applicant while working as EDDA, Padanipal BO was directed by the Assistant Superintendent of Post Offices, Kendrapara Sub-division vide his order dated 6.2.2006 to work as Postman in Bhuinpur SO and according to him, he took over the charge of the said post of Postman with effect from 13.02.2006. Grievance of the applicant is that the post of Postman is higher in grade than EDDA. Whereas EDDA is entitled to Time Related Continuity Allowance (TRCA) the Postman is entitled to regular scale of pay. He claims to have worked in the post of Postman with effect from 13.2.2006 to

29.1.2014. His request for payment of salary of the post of Postman having not been considered, the applicant had earlier approached this Tribunal in O.A.No.661 of 2014 and this Tribunal vide order dated 5.9.2014 disposed of the said O.A. with direction to Respondent No.4 to consider and dispose of the pending representation through a well-reasoned order. In response to this, Respondent No.4 passed a speaking order dated 05.01.2015 (A/8) rejecting the claim of the applicant, inter alia, on the grounds as under:

"The IPO Pattamundai Sub-Division who is the controlling authority of the applicant issued order dated 06.02.2006 directing the applicant to manage the delivery work of Bhuinpur SO without extra remuneration. In the said memo nothing has been mentioned that he will perform the duty of Postman. As per the provision of rule one GDS official is required to work up to maximum 5 hrs whereas the post postman being a departmental employee will serve for 8 hours. In obedience to the order dated 06.02.2006 of IPO, Pattamundai Sub-Division the applicant signed the charge report on 13.02.2006 and nothing has been mentioned in the charge report received from IPO, Pattamundai that he assumed the charge of Postman, Bhuinpur SO. Since he has not assumed the charge of Postman, Bhuinpur SO he is not entitled to any wages for postman and accordingly he was paid TRCA".

2. Aggrieved with this, the applicant has filed the present O.A. praying for the following reliefs:

- i) To quash the order dtd. 05.01.2014 under Annexure-A/8.
- ii) To direct the Respondents to disburse the applicant's arrear pay in commensurate with the duties of Postman of Bhuinpur SO from 13.02.2006 to 29.01.2014 within a stipulated period with 12% interest.
- iii) To pass any other order(s) as deemed fit and proper.

3. Opposing the prayer of the applicant, the respondents have filed a detailed counter. According to respondents, the applicant had been directed to manage the delivery work of Bhuinpur SO vide order dated 06.02.2016 without any extra remuneration and while working as such, the delivery work

of the post office was reviewed and it was found that there is no justification for the post of Postman, Bhuinpur SO. Accordingly, the post of Postman, Bhuinpur SO was abolished as per order of the CMPG, Orissa Circle vide Memo No.EST/18-154 dated 03.11.2008 (R/2) and this order was also implemented on the same day vide do letter No.A/154/Ch.II dated 07.11.2008 (R/3). It has been submitted that no where applicant had ever been directed to work as Postman of Bhuinpur SO. In view of this, the respondents have submitted that the O.A. being devoid of merit is liable to be dismissed.

4. Heard the learned counsels for both the sides and perused the records. I have also gone through the written notes of submissions filed by both the parties.

5. In support of his case, the applicant has placed reliance on the decisions of the Hon'ble Supreme Court in Civil Appeal No.213 of 2013 (State of Punjab & Ors. Vs. Jagit Singh & Ors.) and in State of Punjab & Anr. Vs. Dharam Pal reported in 2017(II) ILR. CUT-728 (SC). The applicant has also cited the decisions this Tribunal in O.A.No.814 of 2011 – disposed of on 21.10.2013, O.A.No.533 of 2015 – disposed of on 4.5.2018. I have examined the applicability of those decisions to the facts of the present O.A. In the decisions of the Hon'ble Supreme Court and of this Tribunal in O.A. No.533 of 2015, applicability of equal pay for equal pay was the subject matter of consideration. In the decision of this Tribunal in O.A.No.814 of 2014, as it reveals, applicant therein had claimed wages of the post of Postman of Rajanagar Sub Post Office for the period from 08.03.2006 to 26.07.2007. The Respondents had taken the stand that the applicant had been ordered to manage the delivery work of Rajnagar SO by the Inspector of Posts, Pattamundai Sub Division with the existing TRCA applicable to the GDS

employees. However, the Tribunal taking note of the fact that the applicant had worked for the post of Postman for 505 days directed payment of daily wages for the period in question in favour of the applicant. However, the facts of the present case are quite dissimilar to facts of those case cited supra. In this connection, it is profitable to quote hereunder the relevant part of Memo No.B/OS-Misc./06 dated 05.02.2006(R/1) wherein it was directed that:

"The GDS MD, Padanipal BO in account with Bhuinpur SO will manage the delivery work of Bhuinpur SO until further order without extra remuneration. The GGDS BPM, Padanipal BO will manage the work MD Padanipal BO in combination of duty without extra remuneration until further orders".

6. The above goes to show that the applicant in the capacity of GDMD, Padanipal BO had been directed to manage the delivery work of Bhuinpur SO until further orders without extra remuneration. Therefore, by no stretch of imagination, it could be said that the applicant being a GDSMD had been directed to work against the post of Postman. This being the scenario, the applicability of equal pay for equal work is out of place and accordingly, the decisions cited by the applicant in support of his case being distinguishable are of no assistance to him.

7. For the reasons discussed above, the speaking order dated 05.01.2015 (A/8) passed by Respondent No.4 warrants no interference by this Tribunal. In the result, the O.A. is held to be without any merit and the same is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS

