

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No.296 of 2014
Date of Order : 14-09-2015

Between :

1. B.Udaya Shankara Rao S/o Late Seethaiah,
Aged about 59 years, Occ : Superintendent of Posts,
O/o Postal Stores Depot, Padma Rao Nagar, Sec'bad.
2. B.Syed Imam S/o B.C.Khaja Hussain aged 56 years,
Occ : ASP(R) O/o SSPOS, Sec'bad.
3. D.V.Mahidar S/o Late D.Guruswamy,
Aged about 58 years, Occ: Superintendent of Posts,
O/o Manager, NSPC, Begumpet-16.
4. K.Siva Nageswara Rao S/o Narayana, Aged about 55 years,
Occ : A.D (Estt and Inv), O/o CPMG, AP Circle, Hyderabad.
5. M.Narasimha Raju S/o Late Siva Rama Raju,
Aged about 55 years, Occ : Presently working as Asst. Director,
O/o Postmaster General, Nagpur Region, Nagpur-10.
6. S.M.S.S.V.Prasad s/o S.Narasimha Rao, Age 55 Yrs, Occ : Superintendent
of Post Offices, Kakinada Division, Kakinada, East Godavari District.
7. D.Sayatanarayana, S/o Narasaiah, Age-55, Occ : Superintendent of Post
Offices, Rajahmundry Division, Rajahmundry, East Godavari District.
8. P.V.Surya Prakash Rao S/o P.Pullaiah, Aged 59 years, Occ :
Superintendent of Post Offices, Amalapuram Division, Amalapuram, East
Godavari District.
9. P.Siddaiah S/o Khasim Saheb, Aged 59 Yrs, Occ : Superintendent of Post
Offices, Suryapet Divsiiion, Suryapet, Nalgonda District.
- 10.G.V.Ramana S/o Rama Rao, aged 58 Yrs, Occ : Superintendent of Railway
Mails, Vth Division, Visakhapatnam.
- 11.B.Royappa S/o Lourdiah aged 61 yrs Occ : Retd. Asst Director R/o
D.No.53-1-137, Arulnagar, Vijayawada-520008.
- 12.S.Prasad Rao S/o Pullaiah, Aged 52 yrs Occ : Asst. Supdt., Posts, O/o
Chief P.M.G., A.P. Circle, Abids, Hyderabad-500001.
- 13.P.Surya Chandra Shekar S/o Radha Krishna Murthy Aged 57 yrs Occ :
Asst.Supdt., Posts, Rajahmundry, East Postal Sub Division,

Rajahmundry-533101.

14. Ch.Shyam Babu S/o Late Gopaiah Aged 53 Years Occ : Supdt. Of Post Offices, Eluru Divisn, Eluru, Andhra Pradesh.

15. P.Parisudda Rao S/o Late P.Sudharshanam aged 56 years, Occ : Asst.Supdt. of Posts, presently working Supdt. Of Post Offices, Nellore Division, Nellore-524001.Applicants

AND

1. The Government of India, Ministry of Communications and IT, Dept of Posts, New Delhi Represented by its Secretary.
2. The Chief Postmaster General, AP Circle, Abids, Hyderabad.
3. The Asst. Postmaster General (Vigilance), AP Circle, Abids, Hyderabad.

...Respondents

Counsel for the Applicants : Mr.N.Vijay

Counsel for the Respondents : Ms.Megha Rani Agarwal, Addl.CGSC

CORAM :

THE HON'BLE MR.B.VENKATESWARARAO : MEMBER (J)

THE HON'BLE MRS.RANJANA CHOWDHARY : MEMBER (A)

(Oral order per Hon'ble Mr.B.VenkateswaraRao, Member (J))

This OA is filed seeking the following relief :-

"It is therefore prayed that this Hon'ble Court be pleased to declare the proceedings dated 24.10.2013 issued by the Respondent No.3 rejecting the claim of the applicants for grant of Grade Pay of Rs.5,400/- w e f the date of completion of 4 yrs in the grade Pay of Rs.4,800/- as contrary to the Government of India Resolution and CCS(Revised Pay) Rules 2008, illegal, arbitrary and without jurisdiction and set aside the same and consequently direct the respondents to grant Higher Grade Pay of Rs.5,400/- with effect from date of completion of regular service of 4 years in the Grade Pay of Rs.4,800/- (pre-revised 7500-12000) and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that the applicants herein were initially

appointed as Postal Assistants i.e Clerical grade, as Inspector Posts and later on as Asst. Superintendent of Posts, which is a Gazetted Group 'B' post carrying a Grade Pay of Rs.4,600/-. The applicants, in the year 2008 were granted MACP and consequently granted the Grade Pay of Rs.4,800/-. The Government of India vide RESOLUTION G.I., M.F.No.1/1/2008-1C, Dt. 29.08.2008, published in Gazette of India, accepted the recommendations as a package subject to the modifications. As per the Clause (i) of the Resolution, the PB-2 is Rs.9,300-Rs.34,800. As per clause (iv) of the Resolution, the calculation for fixation of revised basic pay has been provided for, which is reproduced below :-

"Clause iv – With regard to fixation of pay in the revised pay bands, the basic pay drawn as on 01.01.2006 on the existing Fifth CPC pay scales will be multiplied by a factor of 1.86 and then rounded off to next multiplier of 10. This will be the pay in the revised running Pay Band. Grade Pay, as approved by the Government, corresponding to the pre-revised pay scale, will then be added to the Pay in the revised Pay Band. The total of pay in the pay band and grade pay will be the revised Basic Pay as on 01.01.2006."

An analysis of the Relevant provisions would make it very clear that a Group "B" officer in PB-2 with a Grade pay of Rs.4,800/- is entitled for Grade Pay of Rs.5,400 on non-functional basis after four years of regular service. The enhancement of grade pay is not dependent on the post, but on regular service of four years in Grade Pay of Rs.4,800/- in PB-2. In view of this position, the applicants have submitted representations to the 2nd Respondent for enhanced grade pay of Rs.5400/- with effect from the dates on which they completed four years of service and the same was rejected on the ground that as they have not completed four years of regular service in PS group Cadre. Hence this application.

3. Respondents have filed reply statement agreeing to the material as stated by the applicants. The Respondents state that the applicants are seeking for Rs.5,400/- GP since they have drawn GP of Rs.4,800/- after getting 3rd MACP. Actually, the applicants were placed in Grade Pay of Rs.4600/- which is admissible for Assistant Superintendent of Post Offices Cadre but GP of Rs.4800/- is not attached to Assistant Superintendent of Post Offices Cadre. The Pay Commission recommendations are very clear that the officers whose GP attached to the post is Rs.4800/- is PS Group-B and worked for four years are eligible to GP Rs.5400/-. There is no provision in the recommendations to draw GP of Rs.5400/- to the officers who were given financial upgradation under MACP scheme and consequently have drawn GP Rs.4800/-. Directorate vide its letter in File No.1-4/2013-PCC dt. 02.07.2015 has communicated that “the Department of Expenditure has now clarified the issue of grant of grade pay of Rs.5400/- to the Group B officers (ASPs) of the Department of Posts after completion of 4 years of regular service in Grade Pay of Rs.4800/- earned under the MACP vide their UO No.87654/EIII-A/2015 dated 22.06.2015 as under :

“The proposal of Department of Posts seeking concurrence to allow GP of Rs.5400/- in PB-2 on rendering 04 years of regular service in the grade pay of Rs.4800/- without linkage to the post in the GP of Rs.4800/- has been examined in this Department and not agreed to.”

In view of the forgoing submissions, Respondents pray to dismiss the OA as devoid of merits.

4. Heard Mr.N.Vijay, learned counsel for the applicant and Ms.Megha Rani Agarwal, learned Standing Counsel for Respondents. We have carefully gone through the pleadings and material on record.

5. When the matter came up for hearing, learned counsel for the applicant submits that the subject matter of this OA is covered by the order passed in OA No.1051/2010 decided on 30.03.2012 and the same is as under :-

“8. It was contended by the learned counsel for the petitioner before the Hon’ble Madras High Court that in the resolution of Ministry of Finance, Department of Expenditure, dated 29.8.2008, the Government agreed to grant pay of Rs.5400/- in Pay Band-2 to Group-B Officers of the Department of Posts, Revenue, after four years of regular service in grade pay of Rs.4800/- and clarification was issued by the Central Board of Excise and Customs dated 21.11.2008 that the four years period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs.7500-12000/-. That, the Madras High Court held that the clarification dated 29.8.2008 of the Government of India, would not equate the petitioner therein to the posts viz., Income Tax Officer / Superintendents, Appraisers, etc though he may be drawing the pay scale attached to the said posts by virtue of grant of ACP and that he would not be entitled for regular service in the pay scale of Rs.7500-12000/-, and that the same cannot be granted unless the petitioner is promoted and not merely on the Madras High Court observed as follows :

“7. We are unable to agree with this clarification given by the Under Secretary to Government of India, since in an earlier clarification, dated 21.11.2004 of the Deputy Secretary to Government of India, it was clarified as to how the 4 year period is to be counted for the purpose of granting non-functional upgradation

to Group-B Officer, i e whether the 4 year period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs.7500-12000 (pre-revised) or with effect from 1.1.2006, i e the date on which the recommendation of the 6th CPC came into force. It was clarified that the 4 year period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs.7500-12000 (pre-revised).

8. Thus, if an officer has completed 4 years on 1.1.2006 or earlier, he will be given the non-functional upgradation with effect from 1.1.2006 and if the officer completes 4 years on a date after 1.1.2006, he will be given non-functional upgradation from such date on which he completes 4 years in the pay scale of Rs.7,500-12,000 (pre-revised), since the petitioner admittedly completed 4 years period in the pay scale of Rs.7500-12000 as on 1.1.2008, he is entitled to grade pay of Rs.5400/-. In fact, the Government of India, having accepted the recommendations of the 6th Pay Commission, issued a resolution dated 29.8.2008 granting grade pay of Rs.5400/- to the Group-B Officers in Pay Band-2 on non-functional basis after four years of regular service in the grade pay of Rs.4800/- in Pay Band-2. Therefore, denial of the same benefit to the petitioner based on the clarification issued by the Under Secretary to the Government was contrary to the above said clarification and without amending the rules of the revised pay scale, such decision cannot be taken. Therefore, we are inclined to interfere with the order of the Tribunal."

Ultimately, the Madras High Court held that the petitioner therein is entitled for grade pay of Rs.5400/- with effect from 1.1.2008 i e as per the resolution dated 29.8.2010.

9. The above decision of the Madras High Court is applicable to the facts of the present case with all force, as here also, the applicants herein

have been placed in grade pay of Rs.4800/- and have completed four years in that scale, may be, on account of granting only ACP and not on account of promotion. As such, the OA is liable to be allowed and the applicants shall be granted higher pay scale of Rs.5400/- with effect from their respective dates of completion of regular service of four years in the grade pay of Rs.4800/- (pre-revised scale of Rs.7500-12000/-). As the matter is pending before the Hon'ble Supreme Court, we made it clear that the relief the applicants are getting in this OA shall be automatically subject to the decision of the Hon'ble Supreme Court in SLP (C) No.15627/2011, even without the present respondent-department not filing any proceedings in the Hon'ble High Court or Supreme Court.”

6. On going through the order in the OA cited above, we also find that the subject matter of this OA has already been dealt with and the order passed therein can be made applicable to the present OA also. Accordingly we allow the OA directing the Respondents to grant the benefits as granted in OA No.1051/2010 decided on 30.03.2015 as per the reasons stated therein.

7. No order as to costs.

(RANJANA CHOWDHARY)
MEMBER (A)

(B.VENKATESWARARAO)
MEMBER (J)

Dated : 14th September, 2015.
Dictated in Open Court

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