

Prasanta Kumar Sahoo Vs Union Of India & Others

Court: Central Administrative Tribunal Cuttack Bench, Cuttack

Date of Decision: Jan. 8, 2025

Hon'ble Judges: Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench: Division Bench

Advocate: D.K. Mohanty, S.N. Pattnaik, G.R. Sethi

Final Decision: Dismissed

Judgement

Ranjan Mishra, Member (J)

1. It is the case of the applicant that w.e.f. 12.07.2013 he was transferred and posted in the cadre of UDC (Cashier) in the Branch Office, Choudwar

and, while working as such, on 13.07.2015 he was asked to discharge the additional duty of UDC (Cashier) in the Branch Office, TPM Area in

addition to his own duty. On 25.07.2016, he was en-cadred as Head Clerk/Assistant and posted at Branch Office, Choudwar. He submitted

representation praying for payment of additional pay and allowances/additional remuneration/special pay/presumptive pay for discharging the additional

duties. Thereafter, alleging non-consideration of his representation, he approached this Tribunal in OA No. 624/2019, which was disposed of on

23.09.2019 with direction to respondent to consider his pending representation. The respondents rejected his prayer vide order dated 26.06.2020 and

impugning and challenging the said order of rejection, the applicant has preferred this OA with prayer to quash the impugned order dated 26.06.2020

and direct the respondents to sanction additional pay/allowance/additional remuneration/special pay/presumptive pay against officiating duties of each

UDC-Cashier at two different establishments.

2. Respondents filed their counter contesting the case of the applicant and objecting the prayer sought by him in this OA. According to the

respondents, the applicant was appointed to the post of UDC w.e.f. 01.10.2011 and, subsequently, upgraded to the post of UDC w.e.f. 01.12.2011.

He was transferred from ESI Model Hospital, Rourkela to the Branch Office, Choudwar as UDC(Cashier). While holding the post of Assistant/Head

Clerk, in addition to his own duty, he was also assigned the duties of Cashier of Branch Office Choudwar and Branch Office, TPM Area due to

administrative exigencies and shortage of staff. There is no provisions under FR 49 for giving additional remuneration/special pay for discharging the

additional duties of the present nature. Though, the UDC is assigned the charge of Cashier usually but, in exigency, the work of Cashier is assigned to

LDC/Head Clerk. The applicant is not the only employee who has been detailed discharging the additional charge of the Cashier, in other Branch

Offices, like Puri, Bargarh, the Assistant/Head Clerk is also given the additional duties of Cashier. The Branch Office Choudwar and Branch Office,

TPM Area are functioning in the same building due to shortage of cadrewise sanctioned post for both the Branches, necessary arraignments were

made for smooth functioning of the Branch. The postings of staffs are done keeping in view the sanctioned strength position and availability of staffs.

Additional charge is given to the staff when such situation arises and the applicant is no exception. Further, it is stated that the applicant was never

formally appointed to hold dual charge of two posts, rather, he was ordered to look after the work of Cashier of Branch Office, ESIC TPM Area. It is

stated that none of the grounds put forth by the applicant qualify the provision made under sub-clause (ii) and (v) of FR 49 so as to enable him to get

the relief sought by him. Accordingly, respondents have prayed that this OA being devoid of any merit is liable to be dismissed.

3. Applicant has also filed reply to the counter.

4. According to Ld. Counsel for the applicant, there was no administrative exigency as stated in compelling the applicant to discharge the dual duty

without any extra remuneration. This was done only to show favour to an employee working as UDC/Cashier, who had sought to be transferred to

Dhenkanal. The applicant has been doing voluminous arduous nature of work and as per sub clause (iii) of FR 49, he is entitled to the remuneration

claimed by him. It is stated that when an UDC is allowed to handle the work of Cashier he is entitled to draw cash handing allowance in addition to his

salary but applicant has been performing the duties of Cashier for five years without any such allowance. According to him, since he has been

discharging the duties of both the Branch Offices, he is entitled to pay of the higher pay in addition to ten percent of presumptive pay of the additional

post or posts as per sub clause (iii) of FR 49. It is stated that the applicant held the charge of Assistant/Head Clerk with additional charge of

UDC/Cashier in the same office, i.e. Branch Office Choudwar and TPM Area, he is entitled to draw the pay of UDC(Cashier) in addition to ten

percent of presumptive pay of the additional post of UDC (Cashier of Branch office of TPM Area since 13.07.2015 besides cash handling allowance

in the post of UDC (Cashier) of TPM Area from 13.07.2005 to 16.08.2021. According to the applicant, non-payment of his entitled benefits amounts

to exploitation of employee, which is in violation of the mandate enshrined in the Constitution of India and, therefore, the applicant is entitled to the

relief claimed in this OA.

5. On the other hand, Id. Counsel for the respondents has objected to the arguments advanced by the Ld. Counsel for the applicant by stating that

there is no such rule for payment of any extra remuneration for discharging the additional duties as a temporary measure in exigency of work. The

provision made under FR 49 clearly provides that when a government servant is formally appointed to hold the full charge of the duties of a higher

post in the same office as his own and in the same cadre/line of promotion in addition to his ordinary duties, he shall be allowed the pay and

allowances but in the instant case the applicant has never been appointed formally to hold full charge of duties of the higher post in the same office

and in the same cadre/line of promotion. Therefore, the applicant is not entitled to the relief claimed in the OA and the OA being devoid of any merit is

liable to be dismissed.

6. Arguments were heard and perused the pleadings and the documents placed in support thereof. For better appreciation, the full text of FR 49 is

quoted below:

“The Central Government may appoint a Government servant already holding a post in a substantive or officiating capacity to officiate, as a

temporary measure, in one or more of other independent posts at one time under the Government. In such cases, his pay is regulated as follows: -

(i) Where a Government servant is formally appointed to hold full charge of the duties of a higher post in the same office as his own and in the same

cadre/line of promotion, in addition to his ordinary duties, he shall be allowed the pay admissible to him, if he is appointed to officiate in the higher post,

unless the Competent Authority reduces his officiating pay under Rule 35; but no additional pay shall, however, be allowed for performing the duties of

a lower post;

(ii) Where a Government servant is formally appointed to hold dual charges of two posts in the same cadre in the same office carrying identical scales

of pay, no additional pay shall be admissible irrespective of the period of dual charge provided that, if the Government servant is appointed to an

additional post which carries a special pay, he shall be allowed such special pay;

(iii) Where a Government servant is formally appointed to hold charge of another post or posts which is or are not in the same office, or which, though

in the same office, is or are not in the same cadre/line of promotion, he shall be allowed the pay of the higher post, or of the highest post, if he holds

charge of more than two posts, in addition to ten per cent of the presumptive pay of the additional post or posts, if the additional charge is held for a

period exceeding 1[45] days but not exceeding 3 months provided that if in any particular case, it is considered necessary that the Government servant

should hold charge of another post or posts for a period exceed 03 months, the concurrence of the 1[Department of Personnel and Training] shall be

obtained for the payment of additional pay beyond the period of 03 months;

(iv) Where an officer is formally appointed to hold full additional charge of another post, the aggregate of pay and additional pay shall in no case

exceed 2[Rs. 2,25,000];

(v) No additional pay shall be admissible to a Government servant who is appointed to hold current charge of the routine duties of another post or

posts irrespective of the duration of the additional charge;

(vi) If compensatory or sumptuary allowances are attached to one or more of the posts, the Government servant shall draw such compensatory or

sumptuary allowances as the Central Government may fix provided that such allowances shall not exceed the total of the compensatory and

sumptuary allowances attached to all the posts.

7. It has been made clear vide DoP&T's O.M. No. 4/2/89-Estt. (Pay-II), dated 11.08.1989, that no additional pay is admissible to a Government

servant who is appointed to hold current charge of the routine duties of another post irrespective of the duration of the additional charge. However, in

a number of cases, officers are appointed to hold additional charge of current duties of another post but the duties are not defined in the order. As a

result, the officer performs all the functions of the other post including even some statutory functions. But no additional remuneration is paid in view of

the specific language of the order of his appointment. In certain other cases, an officer is asked to hold additional charge of another post, which

implies full charge of the other post, but he is not formally appointed to that post. Therefore, no additional remuneration is paid to him under FR 49.

From the above, it is clear that for getting the additional remuneration, an employee has to establish by evidence that he was formally appointed to hold

full charge of the duties of a higher post in the same office as his own and in the same cadre/line of promotion. The applicant did not produce any

piece of evidence to establish that he was "formally appointed" by the competent authority to hold full charge of the duties of a higher post in his

cadre/line of promotion because, according to him which he was discharging the duties of UDC (cashier) he was entrusted the additional charge of

UDC (Cashier) on temporary measure in administrative exigency of the other branch in the same office/building. FR 49

(v) clearly provides that no

additional pay shall be admissible to a Government servant who is appointed to hold current charge of the routine duties of another post or posts

irrespective of the duration of the additional charge as in the instant case. The applicant did not produce any other rulings to establish his claim nor it is

his case that in similar circumstances any other employee has been paid any such extra remuneration but he has been deprived of. In view of the

discussions made above, we see no ground to interfere in the matter.

8. Resultantly, this OA fails and is accordingly dismissed by leaving the parties to bear their own costs.