

IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

Appeals No.1620,1621,1623 to 1632 &
1696 to 1811 (R)(C.S)/2010

Date of Institution : 10.11.2010

Date of Hearing : 09.04.2011

Date of Judgement : 16.04.2011

Appellants : Basit Maqbool Hashini & 11 others
& Ijaz Ahmed & 115 others

18
844
Respondents : 1. Ministry of Finance, through Secretary Finance Division,
Islamabad.
2. The controller General of Accounts, Sector G-5, Islamabad.
3. The Account General Punjab, Turner Road, Lahore.

Before : Mr. Ayaz H. Bokhari,
Mr. Farrakh Qayyum and
Mrs. Neelam S. Ali, Members.

Present : Mr. Abdur Rehman Siddiqui, Advocate with appellants.
Malik Javed Iqbal, Advocate for the respondents with DR.
Almandar Hussain Malik, Dy. Secretary (Regulation-1),
M/o Finance, DR.

JUDGEMENT

AYAZ H. BOKHARI, MEMBER: Through this common judgment we are disposing of Appeal No. 1620, 1621, 1623 to 1632(R)CS/2010 and 1696 to 1811(R)CS/2010 because similar questions of law and facts are involved therein.

2. Briefly, the facts are that the posts of the appellants at the office of the respondent No.3 were upgraded in pursuance of the judgment passed by this Tribunal dated 05.12.2008, whereby the appeals filed by the appellants were accepted vide the aforesaid common judgment. The orders passed by Tribunal are reproduced as under:-

"In view of the above discussion, we are of the firm view that it shall be in the interest of justice to de-link the question of up-gradation of posts as claimed in the appeals from the issue of Provincialization of Accounts and to deal with these issues separately. We accordingly direct the respondent No.1 to take up the issue of up-gradation of the posts and decide the same within 90 days of the receipt of this judgment in the light of the recommendations of Respondents No.2 and 3. All or any of the appellants if still aggrieved may approach the Tribunal afresh in accordance with law if so advised. The appeals are disposed of in the above terms." (Sic).

ATTESTED


Registrar
Federal Service Tribunal
Islamabad.

3. The said judgment was neither challenged by the respondents nor was implemented by them until the time, the appellant filed a Misc. Petition for implementation upon which this Tribunal passed the order dated 19.12.2009 and the respondents were directed to implement the judgment within 90 days, as the judgment of the Tribunal has attained finality, since it had not been challenged in the Apex Court by then.

4. The respondents subsequently filed CPLA before the Apex Court which was declined vide order dated 15.3.2010 with the directions to the respondents to implement the judgment of this Tribunal dated 05.12.2008 within a period of 15 days from the date of receipt of the orders. The respondents implemented the judgment vide order dated 03.04.2010 whereby the relevant posts have been upgraded with immediate effect, instead of 12.9.2005 the date the counter-parts of the appellants were upgraded doing the identical nature of job under the same roof.

5. The appellants preferred departmental appeals against the impugned order dated 3.4.2010 which were rejected. Hence, these appeals. The appeals were resisted by the respondents. It is stated that since the date of upgradation of posts was not mentioned in the orders passed by the Tribunal and further by Hon'ble apex Court, therefore, the orders for upgradation of posts of the appellants have been issued with immediate effect, however, they promised to follow the direction of this Tribunal.

6. We have heard the learned counsel for the parties and have also perused the record.

7. Perusal of record reveals that the appellants felt aggrieved of the discriminatory treatment meted out to them when similar posts involving identical duties in the Inspectorate of Treasuries and Accounts and Treasuries / District Accounts Offices were upgraded by the Finance Department, Government of the Punjab while appellants belonging to the Federal Structures were ignored. The respondent No.1 was directed by this Tribunal vide order dated 5.12.2008 to take up the issue of

ATTESTED


Registrar
Federal Service Tribunal
Islamabad

upgradation of the post and decide the same within 90 days of the receipt of judgment in the light of the recommendations of respondent No.2 and 3 i.e. Controller General of Accounts and Accountant General Punjab respectively.

8. A feeling of discrimination has been created between two sets of officers employed in the same job description though working under different control. The parity of treatment could only be established under the law if same prospects and career planning is adopted equitably.

9. We are of the view that the discrimination of the appellants is still not removed as orders of the respondents dated 3.4.2010 made the appellants junior to their counterparts Provincial Government employees instead of making them senior. Article-25 of the constitution of Islamic Republic of Pakistan clearly provides equal treatment of law to all. Moreover, the Respondents No.3 Accountant General Punjab had already submitted no objection if the post of the appellant are upgraded in a manner that they become senior to their immediate junior performing identical duties at the same or similar offices. Furthermore, the judgment of this Tribunal dated 5.12.2008 was a direction to the respondents to upgrade the said post in the light of recommendations of Respondent No.2 and 3 i.e Controller General of Accounts and Accountant General Punjab respectively. The orders of the respondents dated 3.4.2010 are not in accordance with the recommendations of the respondent No.3 as they are discriminatory and do not fully remove the grievances of the appellant and are against the spirit of this Tribunal orders dated 5.12.2008 and in violation of the Article 25 of the Constitution of Islamic Republic of Pakistan which clearly provide equal treatment of law to all. Furthermore, the Respondent No.3 i.e. Accountant General of Punjab has already submitted no objection if the posts of appellants are upgraded in a manner that they become seniors to their immediate juniors.

10. Keeping in view the above circumstances, we accept the appeal and direct the respondents to modify their orders dated 03.04.2010 and up-grade the posts of the appellants w.e.f 12.09.2005, the date on which the provincial government has up-

ATTESTED

Secretary Punjab

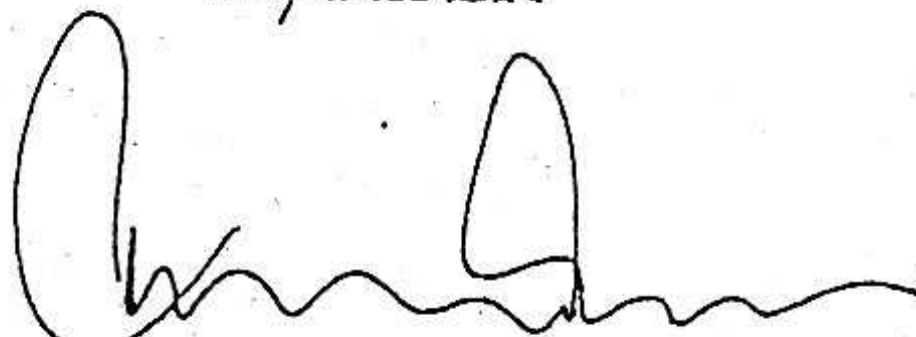
4

1620,1621,1623 to 1632 and
1696 to 1811(R)(C.S)/2010

graded the posts. The appellants are entitled to all the back benefits. With this direction the appeals are disposed of accordingly.

11. There shall be no order as to costs. Parties be informed.

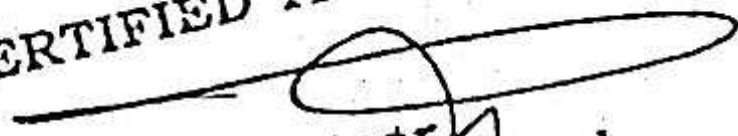

MEMBER


MEMBER


MEMBER

Islamabad, the
16th April, 2011

CERTIFIED TRUE COPY


Registrar
Federal Service Tribunal
Islamabad

