

**Central Administrative Tribunal
Madras Bench**

QA/310/00065/2015

Dated Friday the 22nd day of January Two Thousand Sixteen

P R E S E N T

Hon'ble Mr.R.Ramanujam, Member(A)

T.S.Sivanesan
S/o.T.K.Subramaniam,
Deputy General Manager, (SD and SA)(EB),
Chennai Telephones,
Bharath Sanchar Nigam Limited,
52, EVK Sampath Salai, Vepery,
Chennai 600 07.
.. Applicant

By Advocate M/s. Menon, Karthik, Mukundan & Neelakantan

Vs.

1. Union of India, rep by
The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Bharath Sanchar Bhavan,
Janpath, New Delhi 110 01.
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Anna Salai, Tamil Nadu Telecom Circle,
Chennai 600 002.
3. Chief Accounts Officer (Finance),
O/o the Chief General Manager,
Anna Salai, Tamil Nadu Telecom Circle,
Chennai 600 002.
4. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Chennai Telephones,
78, Purasawakam High Road,
Chennai 600 010.

5. The Senior General Manager(EB),
Chennai Telephones,
Bharath Sanchar Nigam Limited,
52 EVK Sampath Salai, Vepery,
Chennai 600 007.
6. The Accounts Officer(Pay),
Central Business Area, Chennai Telephones,
O/o the General Manager(Central),
10, Dams Road, Chennai 600 002. .. Respondents

By Advocate **Mr.A.S.Chakravarthy**



ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The facts of the case according to the applicant are that he is presently working as Deputy General Manager (TTS Group-A), Chennai Telephones. While he was holding the post of Sub Divisional Engineer, his pay was stepped up on par with his junior w.e.f. 01.1.1996 by order dated 13.2.2004. Thereafter, in the year 2011 his pay was revised downwards without any prior notice to him. When this was challenged before this Tribunal in OA 1258/2011, it was disposed of by order dated 21.1.2014 with a direction to the applicant to make a representation to the respondents on his grievance. The applicant filed WP 4001/2014 before the Hon'ble High Court of Madras and the same was disposed of by order dated 20.2.2014 whereby the order passed by the 3rd respondent dated 04.8.2011 and the order dated 21.1.2014 of this Tribunal were set aside with liberty to the respondents to issue a show-cause notice with regard to the refixation of pay in accordance with law. Show-cause notice was accordingly issued for refixation of pay and the applicant made a detailed representation in response thereto. No final orders have been passed by the competent authority on the issue of refixation of pay. On the other hand, a lower level officer, namely the 6th respondent herein passed an impugned order revising the pay of the applicant downwards, pending final decision by the competent authority. Hence, this OA seeking to set aside the order dated 08.1.2015 of the 6th respondent.

2. The respondents contest the claim of the applicant. According to them, since the stepping up of pay was done inadvertently and against the provision of FR 22 which regulates stepping up of pay due to anomaly in pay fixation of a senior as compared to a junior, a show cause notice was issued on 23.7.2014 to explain in detail the rules and procedures available under the FR and Supplementary Rules and the Government of India orders available thereunder governing the fixation of pay and allowance and settlement of pay anomaly arising in exercise of the relevant rules. Subsequent to the issue of show cause notice the applicant has not submitted any proof with relevant documents like copies of Common Seniority list to prove that the junior and self belong to same seniority list, the pay details of the self and his junior before and after the occasion for the pay anomaly to compare the pay of the applicant and junior to analyze the reason as to why the pay of the junior is on the higher side and also whether the applicant was drawing same (or) higher pay as compared to his junior before such implementation of pay fixation. These details are mandatory to claim stepping up of pay on par with junior. Without giving these details, the applicant instead cited only the rules under which he is eligible for pay revision without giving the actual pay drawn by him and his junior from time to time before and after the occasion for the pay anomaly.

3. The applicant filed rejoinder stating that the respondents in response to

information sought under RTI have stated that they do not have records as to the date of promotion, redesignation of the applicant as well as his junior. In the absence of the same the downward revision of pay was done. The anomaly arose in the post of Sub Divisional Engineer and that too pursuant to the implementation of the 5th CPC Recommendation w.e.f. 10.1.1996.

4. Per contra, the respondents have filed reply to rejoinder stating that the applicant was given stepping up of pay as per Note 9 of Rule 7. This Rule will not apply in the instant case as per the provisions mentioned for eligibility as per which stepping up could be granted only when his junior is promoted on or after 1.1.1996. Thus, the stepping up was granted wrongly to the applicant as his junior was promoted before 01.1.1996 and not after.

5. When the matter is taken up for hearing today, learned counsel for the respondents points out that the pay fixation was done incorrectly in favour of the applicant earlier and the respondents on discovering the mistake had issued revised pay fixation orders. When the matter was taken up by way of WP before the Hon'ble High Court of Madras, the Hon'ble High Court of Madras directed the respondents to issue a show cause notice to afford an opportunity to the applicant to explain why his salary should not be reduced. A show cause notice was accordingly issued and the reply to the same was submitted by the applicant (Annexure A8) dated 2.9.2014. While the matter was under consideration of the

competent authority an order was issued to step down the pay of the applicant from Rs.8750/-to Rs.8000/- w.e.f. 01.1.1996 by the Accounts Officer (Pay) who is the 6th respondent herein in view of the impending retirement of the applicant in January 2015.

6. Learned counsel for the applicant submits that the applicant's grievance is principally against the impugned order dated 8.1.2015 issued by a subordinate authority when the matter had not been considered by the competent authority. It is submitted that the applicant would be satisfied if the impugned order is set aside and the respondents are directed to consider the reply to the show cause notice on merits in accordance with law and facts and circumstances of the applicant's case.

7. As no final orders have been passed in the matter by the competent authority, the facts submitted by the applicant in the reply to the show cause notice are yet to be examined in the light of the relevant rules and the entries contained in the Service Book of the applicant, I deem it appropriate to close this OA with a direction to the respondents to decide the matter finally on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. The applicant shall also be heard personally and be permitted to submit any additional documents in his possession to support his case. The applicant shall be allowed to peruse his own Service Book as well as that of his junior at the time of hearing so as to satisfy himself about the correctness of the

entries. In the meantime, the impugned order dated 08.1.2015 (Annexure A9) shall not be acted upon.

8. The OA is disposed of in the above terms. No order as to costs.

