

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 44/97

Monday, this the 17th day of August, 1998.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR AM, SIVADAS, JUDICIAL MEMBER

P. Bhargavan Nair,  
Accounts Supervisor,  
Head Record Office,  
Railway Mail Service, Ernakulam Division,  
Kochi - 16.

...Applicant

By Advocate Mr. O.V. Radhakrishnan

Vs.

1. Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.
2. Director General of Posts,  
New Delhi.
3. Union of India, represented by its Secretary,  
Ministry of Communications, New Delhi.

...Respondents

By Advocate Mr. Thomas Mathew Nellimootttil.

The application having been heard on 17.8.98, the  
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who is an Accounts Supervisor in the Railway Mail Service submits as follows. The applicant was promoted as Accountant with effect from 1.12.80 on a pay of Rs.420/- per month plus a special pay of Rs.45/-. He was promoted to Lower Selection Grade with effect from 6.10.81 and posted as Accounts Supervisor. His pay was fixed at Rs.470/- per month on 6.10.81 and refixed at Rs.485/- per month on 1.6.82 with date of next increment as 1.6.83 taking into account the special pay drawn by him in the lower category. He was drawing a pay of Rs.530/- per month on 31.12.85. His pay was fixed at Rs.1560/- per month on 1.1.86 with date of next increment to Rs.1600/-

per month on 1.6.86 under the Revised Pay Rules, 1986. His promotion to Lower Selection Grade was regularised with effect from the date of his original ad hoc promotion namely 6.10.1981. One, Shri M.P. George, who is junior as seen from A-1 Circle Gradation List of Railway Mail Service Officials, Kerala Circle as on 1.7.82 in the Category of Time Scale Sorters was posted as Assistant Accountant on 16.8.79 and was promoted to Lower Selection Grade on 30.11.83. His pay was fixed at Rs.470/- per month on promotion to Lower Selection Grade and refixed at Rs.500/- per month on 1.2.84 with date of next increment as 1.2.85. He was drawing a pay of Rs.515/- per month on 31.12.85 which was lower than that of the applicant. His pay was fixed under the Revised Pay Rules, 1986 at Rs.1560/- per month on 1.1.86 with date of next increment to Rs.1600/- per month on 1.2.86. This resulted in the applicant drawing Rs.1560/- per month on 1.2.86 whereas the said Shri M.P. George was drawing a pay of Rs.1600/- per month on 1.2.86. This anomaly has to be corrected under Rule 8 of the Revised Pay Rules, 1986. Applicant submitted several representations in this behalf and by A-9 order dated 10.1.96, his request was rejected. Applicant prays that A-9 be quashed and for a declaration that he is entitled to the benefit of the second proviso to Rule 8 of the Central Civil Services (Revised Pay) Rules, 1986 and that he is entitled to get his date of increment changed to 1.2.86 with consequential benefits.

2. Respondents submit that applicant was in the Lower Selection Grade (Accounts Line) Cadre and that the said Shri M.P. George was in the Lower Selection Grade (General Line) and since they were in different cadres, the Rule 7 of the Revised Pay Rules has no application. They also submit that the present case is one covered under note 7 of Rule 7 of the Central Civil Services (Revised Pay) Rules, 1986 and therefore Rule 8 has no application.

3. Applicant in his rejoinder produced A-10, A-11 and A-12 which show that the pay scale of Accountants has been revised from Rs.260-480 to Rs.380-620 on 10.11.78 and has further been brought back to Rs.260-480 with a special pay of Rs.45/- per month on 24.2.81. By A-12, dated 24.9.96, it is stated as follows:

" Under TBOP/BCR Scheme there is no distinction between General Line and Accounts Line except for the limited purpose of functional necessity. Hence, promotion under the TBOP/BCR Scheme shall be implemented with reference to juniors in the now common Postal Assistant/ LSG gradation list. "

4. It is not in dispute that the applicant and Shri M.P. George find a place in the Seniority list of Time Scale Sorters (A-1) and that Shri M.P. George is junior to the applicant in that Gradation list. It is not also in dispute that on 31.12.85, applicant was drawing a pay of Rs.530/- per month whereas Shri M.P. George was drawing a pay of Rs.515/- per month. It is not also in dispute that despite the different pay drawn by them, the pay of both applicant and Shri M.P. George were fixed at Rs.1560/- per month on 1.1.86 under the revised scale of Rs.1400-2300. The note 7 under Rule 7 relates to fixation of initial pay under revised scale and relates to cases where a Senior Government Servant is promoted to a higher post before the 1st day of January, 1986 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986. In this case, both the applicant and Shri M.P. George were promoted to the higher post before 1.1.86 and on refixation in the revised

pay scale both of them are drawing the same pay. Note 7 of Rule 7 therefore clearly has no application in this case. What the applicant has prayed for is only that his date of next increment be preponed to the date of next increment of his junior and that is governed by Rule 8. The second proviso to that Rule states as follows:

" provided further that in cases other than those covered by the preceding proviso, the next increment of the Government Servant whose pay is fixed on the 1st day of January, 1986 at the same stage as the one fixed for another Government Servant junior to him in the same cadre and drawing pay at a lower stage than his in the existing scale, shall be granted, on the same date as admissible to his junior if the date of increment of his junior happens to be earlier. "

This squarely applies to the case in hand. Respondents would however submit that the applicant and Shri M.P. George are not in the same cadre and that the applicant was in the cadre of Lower Selection Grade (Accounts Line) Cadre while Shri M.P. George was in the Lower Selection Grade (General Line). Nothing is found in the pleadings to show how Shri M.P. George who was admittedly in the A-1 Seniority list and who was a Assistant Accountant on 16.8.79 went over to the separate cadre of Lower Selection Grade (General Line). That apart, A-12 clearly says that there is no distinction between the General Line and the Accounts Line except for the limited purpose of functional necessity. It is not therefore possible to accept the contention put forward by the Respondents that the applicant and Shri M.P. George belong to different cadres to deny the request of the applicant for the benefits of Rule 8 of Revised Pay Rules, 1986. The representation submitted by the applicant has been rejected by A-9 order which is not a speaking order and we are unable to understand from the impugned order on what basis and reasoning the appli-

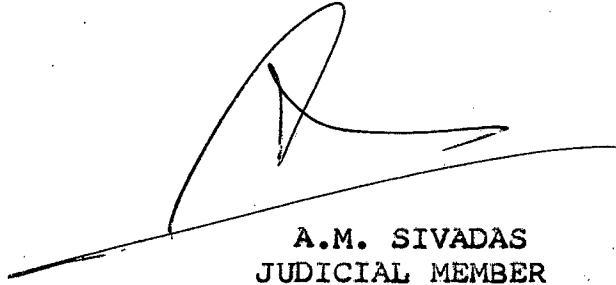
cant has been denied the benefit of Rule 8 to which he is prima facie seen to be eligible. Respondents submit that the impugned order was based on R-2 order issued by the Director General of Posts but that order only states that the representations of the official have been considered carefully by the appropriate authority and rejected. No reasoning is set forth to arrive at that conclusion so that we can examine the matter in judicial review. The Respondents clearly had a duty in such a case to pass speaking orders so that the applicant as well as the Tribunal can understand the reasoning by which the benefit claimed by the applicant was rejected. Such claims are not to be rejected by the Respondents by such cryptic orders as clearly laid down in several decisions of both the Tribunal as well as the Supreme Court.

5. We therefore consider that in the light of the discussion above, both the applicant and Shri M.P.George were in the same cadre of Lower Selection Grade and that applicant was drawing a pay of Rs.530/- per month on 31.12.85 as against Shri M.P.George, junior to the applicant who was drawing Rs.515/- per month on that date. On fixation in the revised scale on 1.1.86, both the applicant and Shri M.P.George were fixed at the same point in the revised scale, namely, Rs.1560/- per month. The date of next increment of the junior Shri M.P. George was 1.2.86 whereas the date of next increment of the applicant was 1.6.86. In these circumstances, Rule 8 permits the date of next increment of the applicant to be fixed as 1.2.86. We therefore hold that the prayer of the applicant is fully justified and is in accordance with the second proviso of Rule 8 of the Central Civil Services (Revised Pay) Rules, 1986.

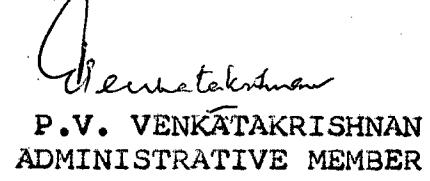
6. In the result, the prayer of the applicant is allowed. A-9 is quashed and the applicant is declared to be entitled to the benefit of the second proviso to Rule 8 of the Central Civil Services (Revised Pay) Rules, 1986 under which he is entitled to have his date of next increment advanced to 1.2.86, the date of next increment of his junior Shri M.P. George. The first Respondent is directed to pass appropriate orders in the light of the above declaration within three months of today. The applicant will be entitled on such fixation to arrears of pay.

7. No costs.

Dated the 17th day of August, 1998.



A.M. SIVADAS  
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

nv

### LIST OF ANNEXURES

1. Annexure A1: True extract of the Circle Gradation List of Railway Mail Services, Kerala Circle as on 1.7.1982.
2. Annexure A9: True copy of the letter No.3/103 dated 10.1.96 of the Senior Superintendent of Railway Mail Service, Ernakulam Division intimating the letter No.44/67/95-SPB.II dated 20.11.95 of the 2nd respondent.
3. Annexure A10: True copy of the letter No.31-31/74/PE-I dated 10.11.1978 of the 2nd respondent.
4. Annexure A11: True copy of the letter No.31-56/79-PE-I dated 24.2.81 of the 2nd respondent.
5. Annexure A12: True copy of the letter No.44-60/96-SPB.II dated 24.9.96 of the Directorate.
6. Annexure R2: A true copy of the letter No.44-67/95-SPB-II of the Ministry of Communications dated 20.11.1995.

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