

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 446 1990  
T.A. No.

DATE OF DECISION 26.4.91

T.J. Thomas, A.R. Murali, Applicant (s)  
K.K. Rajudas, V.V. Sreekumar and M.J. Avirachan

Mr. C P Sudhakara Prasad Advocate for the Applicant (s)

Versus

Secretary, Ministry of Planning & Others Respondent (s)

Mr. V V Sidharthan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicants are Investigators in the National Sample Survey Organisation (Field Operations Division) for short NSSO. They have filed this application for stepping up of their pay and for quashing Annexure A-1, Annexure A-2 and Annexure A-3 memoranda rejecting the request for stepping up of the pay. They have also sought for a declaration that they are entitled to have their pay fixed at Rs. 1480/- w.e.f. 1.2.86 and receive the same by them with all arrears thereof.

2. The short facts are as follows. The applicants entered service as Investigators in January, 1984. In

Annexure A-5, All India Seniority List of Investigators in NSSO for the period from 1983 to 1984, published by the second respondent as per Order No. A-23021/1/89/Estt.III dated 30.1.90, they are declared senior to Shri E. Masilamani working in the same category. On the basis of the recommendation of the IV Pay Commission, the Central Govt. issued Central Civil Services (Revised Pay) Rules, 1986, Revised Pay Rules for short, providing that the next increment of the Govt. servant whose pay has been fixed in the revised scale in accordance with sub rule 1 of Rule 7 shall be granted on the date on which he would have drawn his increment had he continued in the existing scale and in the case of a Govt. servant further provided that whose pay is fixed on 1.1.86 at the same stage as the one fixed for another Government servant junior to him in the same cadre and drawing pay at lower grade than the date of his next increment shall be same as that of junior him in the existing scale. Going by the provision of the aforesaid rule 8, next increment of the applicants after the revision of pay w.e.f. 1.1.86 would fall due on 1.1.87. Based on the said rules the respondent No. 2 issued Annexure A-6 order No. 1(19)/IV PC/KLa/86-87 dated 22.10.86 revising the pay of the applicants as on 1.1.86 was Rs. 455 (pre-revised). The revised pay given to them as on 1.1.86 as per Annexure A-6 was Rs. 1440. But the next increment in their case is stated to be due only on 1.1.87. According to the applicants the fixation of pay in Annexure A-6 was made without reference to second proviso to Rule 8 of the Revised Pay Rules. Annexure A-7 is similar order passed in respect of the same categories

of officials working in Tamil Nadu State. It can be seen from Annexure A-7 that Shri E. Masilamani who according to the applicants is junior to them, was getting a pay of only Rs. 440 in the pre-revised scale as on 1.1.86. But when the pay was revised as on 1.1.86 he obtained a revised pay of Rs. 1440 along with his seniors who were drawing Rs. 455 in the pre-revised scale on 1.1.86. While the next increment of Shri Masilamani was due on 1.2.86, the next increment of his seniors shown in Annexure A-7 was due only on 1.7.86, 1.8.86, 1.10.86, 1.11.86 and 1.12.86. But all the seniors were allowed to get the next increments thereto raising <sup>b</sup> /under the second proviso to Rule 8. <sup>b</sup>/ their pay to Rs. 1480 from 1.2.86. The applicants claim the same benefit as they are also entitled to get the same as of right since their junior was getting a pay of Rs. 1480 <sup>b</sup> /after earning an increment on that date on 1.2.86 on the basis of the Revised Pay Rules. Thus was the applicants' claim to get their pay/fixed at Rs. 1480 from 1.2.86. The applicants also pointed out in their representation that one Shri Rajini Bhooshan, Investigator Cochin who was previously working in the A & N Islands also obtained the same benefit of stepping up of increment in the pay fixation and contended that there is discrimination. Their representations were rejected on the ground that they cannot claim seniority over Shri Masilamani for pay under Rule 8 of the Revised Pay Rules since he is working in Tamil Nadu.

3. The respondents have filed a detailed counter affidavit and the applicants answered all the statements in the counter affidavit by filing detailed rejoinder.

4. Having heard the matter and after perusing the records we are of the view that the decision in this case depends on the interpretation of rule 8 of the Revised Pay Rules and its application on the applications considering their seniority vis-a-vis Shri Masilamani.

5. The relevant portion of Rule 8 of the Revised Pay Rules is extracted below:

" Date of next increment in the revised scale:-

The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub-rule (1) of Rule 7, shall be granted on the date he would have drawn his increment had he continued in the existing scale:

Provided that in cases where the pay of a Government servant is stepped up in terms of Note 3 or Note 4 or Note 7 to sub rule (1) of Rule 7, the next increment shall be granted on the completion of qualifying service of twelve months from the date of stepping up of the pay in the revised scale:

Provided further that in cases other than those covered by the preceding proviso, the next increment of a 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 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 the junior happens to be earlier....."

6. The above rule says that the next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub rule 1 of Rule 7 shall be granted on the date he would have drawn increment had he continued in the existing scale. The applicants/satisfy

this requirement and they had been given the benefit of the revision under the Revised Pay Rules but they claim stepping up of pay based on second proviso to the rules which provides that the next increment after the Revised Pay Rules in respect of an officer should be fixed with reference to the same stage as the one fixed for another Govt. servant junior to him in the same cadre and drawing pay at lower stage than such person. Hence, the contention of the applicants is that they are senior to Shri Masilamani by date of increment in the revised scale who is working in the Madras State and their /xxx should also be fixed on a par with him. Now we have to examine the question of seniority of the applicants vis-a-vis Shri Masilamani. It is true that in Annexure A-5 All India List of Investigators Shri Masilamani has been placed below the applicants. But in Annexure A-4 memorandum circulated along with the seniority list it has been stated that "all India eligibility list of Investigators appointed upto 31.2.82 has xxx been finalised and circulated" as per letter dated 12.12.88. It is further stated in the same letter that the names of the officials have been arranged in the order of merits assigned at the time of selection irrespective of their date of joining in the State "subject to maintenance of inter se seniority within the State." This statement creates a doubt as to whether the post of Investigator is an All India Cadre for all purposes particularly when it is contended by the respondents that a

State-wise seniority of Investigators is also maintained in every State. The applicants have produced Annexure-12 memorandum in respect of the appointment of the second applicant which contains a clause that "the appointment carries with it the liability to serve in any part of India". They have also produced Annexure-13 memorandum dated 31.8.84 to establish that All India seniority should be taken into account notwithstanding the State-wise seniority lists maintained in every State. They have also produced Annexure A-14 minutes of the 5th Meeting of the Office Council of NSSO(FOD) held on 17-18 June, 1982 at Nagpur. It contains the following clause:

- " Item No. 25: Seniority and promotion vis-a-vis Inter-State transfer of Investigators.

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It was explained that the Investigators appointed on State basis on or before 15.2.79 lose seniority in case they were transferring on their own volition to other States. Such Investigators on their transfer were ranked juniormost in the State(s) where transferred. However, the Investigators appointed after 15.2.79 do not lose their seniority for purpose of confirmation/promotion in the event of their transfer from one State to another as their seniority is reckoned on All India basis."

In this background applicants case depends upon whether their seniority over Shri Masilamani is in the same cadre. It is admitted that a State-wise seniority list in respect of the post of Investigators of NSSO is also maintained in every States and the applicants are borne on the cadre of Investigators of Kerala and Shri Masilamani is in the State Cadre of Tamil Nadu State. Similarly Shri Rajni Bhooshan who was initially appointed as an Investigator in the A & N Islands

is still taken to be in the State Cadre of seniority list of A & N Islands though he has been subsequently transferred to Kerala State at his own request. The respondents have produced Annexures R-1, R-2 and R-3, photostat copies of State seniority list of Kerala, Tamil Nadu and A & N Islands of Investigators respectively. These lists are not attacked by the applicants as unauthorised and illegal and they are not binding on the applicants. But it is seen that an All India seniority list of Investigators is also maintained. The explanation given by the respondents is that it is maintained for the promotion to the post of Asst. Supdts. which is made on an All India basis. Therefore, according to the respondents Annexure A-5 All India Seniority List was prepared first on the basis of State basis and after it is finalised by the State Cadre and the same was forwarded by the State Cadre Controlling authority to the Headquarters office of NSSO for preparation of All India Seniority List of Investigators for the limited purpose of promotion to the post of Asstt. Supdts. This is clear from Annexure A-4 memorandum circulated along with the Annexure A-5 seniority which states that All India Seniority is prepared "subject to maintenance of inter-se seniority of officials within the State."

8. From the facts and evidence available in this case we cannot come to the conclusion that the Investigator

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post is an exclusively All India Cadre and seniority list is maintained for all purposes. The explanation given by the respondents that it is maintained for the limited purpose of promotion to the post of Asstt. Supdts. and their posting in various other States in the exigency of service is acceptable. In the counter affidavit it is made clear that while preparing All India seniority list the names of Investigators of different cadre from various States are included on the basis of length of service subject to maintenance of inter se seniority within the State. Therefore, the contention made by the applicant that they are strictly senior to Shri Masilamani (Tamil Nadu) and Shri Rajni Bhooshan (A & N Islands) for the purpose of pay for ante dating the date of their increment with reference to Rule 8 of the Revised Pay Rules, cannot be accepted. It can be seen that under the Revised Pay Rules the Investigator category in NSSO (Field Operation) has been sanctioned the revised scale of Rs. 1400-40-1800-EB-50-2300 (the pre-revised scale is Rs. 425-700). Accordingly the pay of Investigators in the entire field operation division, NSSO has been refixed in the revised scale in the light of the principles laid down by the Revised Pay Rules 1986. xxxxxxxxx The pay of the applicants also has been fixed giving the benefit of the revised pay scale of Rs. 1400-2300 by the third respondent w.e.f. the dates shown below:

S.l. No.	Name	Pay as on 1.1.86 in the pre- revised scales	Pay as on 1.1.86 in the pre- revised scales.	Date of increment
(1)	(2)	(3)	(4)	(5)
1.	T. J. Thomas	455	1440	1.1.1987
2.	A. R. Murali	455	1440	1.1.87
3.	V. V. Sreekumar	455	1440	1.1.87
4.	K. K. Rajudas	455	1440	1.1.87
5.	M.J.Avirachan	455	1440	1.1.87

9. In the result we are of the view that the statement of the applicants that their pay had been fixed without reference to second proviso to Rule 8 of the Revised Pay Rules 1986 which enables the applicants to ante date the next increment on the date of increment of the junior cannot be accepted since they are borne in the Kerala State Cadre Seniority List of Investigators for the purpose of getting their pay. They have no right to compare their pay with others borne on the seniority of other States. They can only compare their pay with the junior borne in the same seniority list in the Cadre of Kerala State. The applicants have no case that they have been discriminated against in the matter of revision and fixation of pay with the juniors working in Kerala State. Hence, we are of the view that the conditions laid down in the second proviso to the Rule 8 of the Revised Pay Rules 1986 have been fully satisfied in this case. The applicants have no case.

Accordingly we are of the view that there is no merit in the application and it is only to be dismissed. We do so. There will be no order as to costs.

*N. Dharmadan*  
(N. DHARMADAN)  
JUDICIAL MEMBER

*26/4/91*  
ds. 4.91

*N. V. Krishnan*  
(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

KMN.