

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 12.10.93

O.A. 451/93

C. Damodaran
S/o P.T. Achnutna Menon
Chanduparatnu House, Lakshmi Vilas,
Panacherry, Pattikkad P.O. Trissur Applicant

vs.

1. The Telecom District Manager
Kannur
2. The Chief General Manager,
Telecom, Kerala Circle, Trivandrum
3. Union of India represented by
Secretary to Government,
Ministry of Communications,
New Delhi

Respondents

Mr. M.R. Rajendran Nair

• Counsel for the
applicant

Mr. George Joseph, ACGSC

Counsel for the
respondents

CORAM

THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

&

THE HON'BLE MR. R. RANGARAJAN ADMINISTRATIVE MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

A retired Sr. Section Supervisor of the Telecom Department filed this application under section 19 of the Administrative Tribunals' Act with the following prayers:

"i) Declare that the condition in Annexure-I and II to the effect that arrears of pay and allowance arising out of the notional fixation of pay would be admissible only from the date of actual promotion are illegal and direct the respondents to draw and disburse the pay and allowances due to the applicant and pay the same to the applicant along with interest at the rate of 15% per annum within a fixed time limit.

ii) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant, and

iii) Grant the cost of this Original Application."

2. According to the applicant one Shri K. Ayyappan, who is junior to the applicant, was also included in Annexure-I and II, was given re-fixation of notional pay and allowances and arrears of pay ~~xxxxxxx~~ from the actual date of promotion. In Annexure A-1, the applicant

is at Sl. No.8, who was promoted to the category of LSG cadre w.e.f. 13.8.69 but notionally from 19.1.68. By Annexure-II order, the applicant was given actual promotion to HSG cadre w.e.f. 12.10.87 and notional promotion w.e.f. 9.1.84. In the same order, his junior Shri Ayyappan K. was given actual promotion w.e.f. 24.5.89 and notional promotion w.e.f. 9.1.84. Shri Ayyappan filed O.A. 204/89 and obtained a judgment in his favour. Accordingly, the benefit of re-fixation of notional pay and arrears were granted to him as per Annexure-III order. Relying on the judgment in O.A. 204/89, the applicant filed Annexure-IV representation before the second respondent. The applicant submitted that since the junior of the applicant who is included in Annexure-I and Annexure-II orders was given the benefit of pay and arrears taking into consideration the revised orders, there is no justificationⁱⁿ denying such benefits to the applicant.

3. The respondents in the reply did not give any reason for denying the benefit to the applicant on the basis of the Annexure-I and Annexure-II orders and the judgment in O.A. 204/89; but stated that the case cited by the applicant is "an individual case not applicable to the applicant".

4. The respondents have no case that the benefits given to the junior of the applicant Shri Ayyappan is not extendable to the applicant nor did they state that the case of the applicant is distinguishable so as to deny the same benefit to the applicant or a different view is possible to reject the claim of the applicant as stated in the reply.

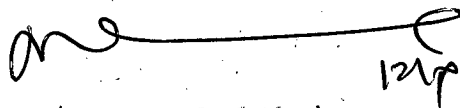
5. The learned counsel for applicant asserted that applicant is similarly situated like the applicant in O.A. 204/89. He further submitted that it has been repeatedly held by this Tribunal that when a law has been declared in respect of an issue, it is the duty of the administration

to examine the cases of similar nature and decide whether the same benefit is applicable to similarly situated employees who have approached the authorities placing reliance on the judgment. The stand taken by the respondents in the reply cannot be appreciated.

6. However, in the facts and circumstances of the case we are disposing of the application with a direction to the second respondent to pass orders on Annexure-IV representation bearing in mind the case of the applicant that he is eligible to the same benefits which have been granted by the Department to Shri Ayyappan who is also included in the Annexure-I and Annexure-II proceedings. In view of the fact that the applicant is a retired employee, we direct the second respondent to implement the direction within a period of one month from the date of receipt of the copy of this judgment.

6. The application is disposed of on the above lines.

7. There shall be no order as to costs.



(R. RANGARAJAN)
ADMINISTRATIVE MEMBER



(N. DHARMADAN)
JUDICIAL MEMBER

12.10.93

kmm

List of Annexures

1. Annexure-I : Memo No. ST/7-18/Pre-59/65 dated 23.11.90
2. Annexure-II: Memo No. STB/7-18/Pre-59 dated 18.3.91
3. Annexure-IV : Representation of the applicant dated
15.11.91