

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 460/94

Tuesday, this the 30th day of August, 1994

CORAM:

HON'BLE MR. P. V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

A. Madhavi W/o Sudhakara Kurup
Telephone Supervisor (O),
Telephone Exchange, Attingal

Applicant

By Advocate Mr. M.R.Rajendran Nair

vs.

1. Union of India represented by
Secretary to Government, Ministry of
Communications, New Delhi
2. The General Manager, Telecom.
Trivandrum
3. The Assistant General Manager (Admn)
Telecom District, Trivandrum

Respondents

By Advocate Mathews J. Nedumpara, ACGSC

O R D E R

Applicant was drawing Rs. 440/- in the pre-revised scale of Rs. 425-640 as on 31.12.85. Her increment raising the pay to Rs. 455/- fell due on 1.1.86. Meanwhile, revised pay scales came into effect on 1.1.86. The case of the applicant is that as on 1.1.86, the pre-revised scale does not exist and therefore, the increment due to her on 1.1.86 cannot be granted in the old scale; it should be granted to her in the revised scale. This would imply that her pay in the revised scale should be fixed with reference to the pay drawn Rs. 440/- and then increment in the revised scale should be granted to her on 1.1.86.

2. Respondents relied on the Government of India decision No. 2 below Rule 8 and the provisions in Rule 7(1) of the Central Services (Revised Pay) Rules 1986. This decision states:

"Fixation of pay on 1.1.1986, when the normal date of increment is also 1.1.1986- In cases of persons opting for revised scales of pay from 1.1.86 when normal date of increment is also 1.1.1986, the increment in the existing scale may be allowed first and the pay fixed in the revised scale thereafter."

(emphasis supplied) ..

3. The applicant's pay fixation is governed by this decision. However, it is seen that in this case the application of this rule leads to an anomaly. If the increment is granted to the applicant in the pre-revised scale and the fixation in the revised scale is done thereafter, the pay in the revised scale becomes fixed at the same point namely Rs. 1440/- This would mean that the grant of increment in the pre-revised scale before fixing the pay in the revised scale makes no material difference to the applicant. On the other hand, since the next increment is stated to be due only on 1.1.87, in effect monetarily the applicant would have lost the benefit of one increment even though technically two increments have been granted- one in the lower scale and one in the revised scale on 1.1.87. This would mean that the applicant would continue to be a loser by this method of fixation.

4. It would appear that the Government of India while issuing the decision No. 2 under Rule 8 has not covered the cases where fixation ~~xxx~~ leads to the same point in the revised scale. Equity would require that in such cases either the Government servant should be given an option of drawing the increment to choose the method or the method which gives a monetary benefit to the applicant is provided for. It would also appear that the method prescribed would place the Government servant whose increment fell due on 1.1.86 at a permanent disadvantage compared to another whose increment fell due on 2.1.86. In the latter case, after the pay is fixed in the revised scale on 1.1.86, a further increment will fall due on 2.1.86. These are matters which require ^{the} attention of the Government of India.

5. Learned counsel for applicant also cited several decisions of the Tribunal which have bearing on this point. In O.A.K. 307/88, the Tribunal considered the case of a

person whose annual increment fell due on 25.1.86, preponed to 1.1.86. The Tribunal held:

"...we allow the application to the extent of directing the respondents that the applicant's pay as on 1.1.86 should be fixed on the basis of his pay of Rs. 340/- in the old scale and his next increment in the revised scale should be allowed to him with effect from 25.1.86."

The Tribunal also observed in that case:

"It is a recognised principle that a beneficial dispensation (in this case preponement of increment) should not be worked in a manner which will give the beneficiary a less advantageous position than what he would have obtained without the benefit. Accordingly, preponement of the applicant's increment due on 25.1.86 should not be operated so that while he does not get any advantage on 1.1.86, he is deprived of the increment on 25.1.86. Further, as on 25.1.86 his pay cannot be deemed to be Rs. 350/- in the old scale to be preponed to 1.1.86, as the old scale became extinct on or after 1.1.86."

In O.A. 1014/91, the Tribunal considered the decision already extracted in O.A.K 307/88 and held that:

"..action in regard to the fixation of the applicant's pay will be taken in the light of the observations of this Tribunal in O.A. 307/88."

6. In O.A. 295/92, the Tribunal relied on the decision in O.A. 664/91 where it was held that the old scale cannot in any case be deemed to exist xxxx on 1.1.86.

7. It is also seen that the respondents themselves do not consider the matter as beyond doubt. In the last paragraph of the impugned order at Annexure-I it is stated

"However, the matter has been referred to the competent authority along with copies of judgments and the decision taken will be communicated to you in due course."

8. In these circumstances, I direct the first respondent to consider the matter in detail and clarify the position in respect of cases where the procedure prescribed in decision No. 2 under Rule 8 cited above would lead to the fixation of the pay of the Govt. servant in the revised scale at the same point irrespective of whether an increment was or was not granted to him on 1.1.86 in the old scale. The first respondent may also consider

whether in cases where the Government servant does not get any benefit in terms of fixation in the revised scale and practically loses the benefit of an increment on 1.1.86, Jxxxxxx an option can be given to him to choose the beneficial method of fixation. The first respondent will consider the matter and pass a reasoned order within three months from the date of receipt of this order. No costs.

Dated the 30th of August, 1994.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure I: True copy of the Order No.Q-2700/92-93/67
dated 29.4.1993 issued by 3rd respondent to the applicant.

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