

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 461/92

Wednesday, the seventeenth day of November, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. P.V. VENKATAKRISHNAN MEMBER (ADMINISTRATIVE)

Easaw Mathew
Ikareth House
Amaillor Village Manjadi P.O.
Tiruvalla-5, Pathanamthitta Dist.

Applicant

By Mr. K.P. Vijayan

vs.

1. Union of India represented by the
Secretary, Ministry of Home Affairs,
New Delhi

2. The Under Secretary, Govt. of India
Ministry of Home Affairs, Department
of Internal Security (Rehabilitation
Division) Jaisalmer House, Mansingh
Road, New Delhi-110 011

Respondents

By Mr. T.P.M. Ibrahim Khan, ACGS C

ORDER

N. DHARMADAN

A retired Selection Grade Junior Engineer has approached this Tribunal for the second time for getting proper fixation of the pay in the selection grade and consequential retirement benefits in accordance with law. He is aggrieved by Annexure A-4 order which is extracted below:

"I am directed to refer to your representation dated 30.6.91 addressed to the Minister of State for Industry on the above subject and to say that as per Central Administrative Tribunals' judgment, your selection grade has been revised from Rs.500-750/- to Rs. 550--900/- and given notional benefits from the date of grant of selection grade and actual benefit from the date of judgment i.e. 15.9.89. Accordingly, your pension is being revised in the scale of Rs. 550-900 as allowed by the Central Administrative Tribunal. Since you have taken voluntary retirement from 15.5.88 (afternoon), i.e. before the date of the accrual of actual benefit, you are not entitled to monetary benefits."

2. According to the applicant, he was working as permanent Jr. Engineer in the Dandakaranya Development Project. He was given selection grade w.e.f. 1.8.76 as per order dated

13.6.86 as stated in Annexure A-1 order. Thereafter, the applicant took voluntary retirement on 15.6.88. Originally applicant was appointed in the scale of Rs. 550-750/-; but according to him the scale was revised to Rs. 550-900/-. Applicant submitted representation along with his colleagues. Since the representation was not favourably considered, two of his colleagues filed O.A. 103/87 and 105/87 before the Cuttack Bench of the C.A.T. which was allowed with the following observation and finding:

"We have heard Mr. A.K. Mohapatra, learned counsel for the applicants and Mr. Tahali Dalai, learned Addl. Standing Counsel (Central) at some length. Mr. Dalai did not dispute the fact that Junior Engineers in the Selection Grade posts of the Telecommunication Department and Central Public Works Department are being given the pay scale of Rs. 550-900/-. In the counter there is no dispute regarding the nature of duties discharged by the Jr. Engineers in the Selection Grade Posts under the Dandakaranya Development Authority and that of Telecommunications Department and Central Public Works Department. Therefore, we find no reason to make different pay scales between the two categories of Jr. Engineers. In such circumstances, we would direct that the applicants be given the pay scale of Rs. 550-900 in the Selection Grade posts."

3. Based on the above judgment, the applicant again submitted representation. Since the representation was not considered, he filed O.A. 124/89 before the Cuttack Bench relying on the Annexure A-8 judgment. That case was allowed and the judgment is produced as Annexure A-3. The operative portion is extracted below:

"Be that as it may, in the meantime there has been an intervening fact namely, others working in the same Department and having the same grade of posts have been allowed by the respondents, for whatever reason may it be, to draw pay in the pre-revised scale of Rs. 550-900/-. Once some persons similarly situated have been given a particular scale of pay, there can possibly be no justification to refuse the present applicant to draw pay in that scale. Accordingly, the applicant succeeds and is declared entitled to draw pay in the pre-revised scale of Rs. 550-900/- w.e.f. the date he was ordered to have been appointed to the Selection Grade of Junior Engineer in the Dandakaranya Development Authority and this pay has to be revised and fixed in accordance with Revised Scale of Pay Rules, 1986 from the due date under those Rules."

4. According to the applicant in spite of the clear direction in the judgment, he was not given the pay scale of Selection Grade Jr. Engineer. He filed representation and later issued a Lawyer's notice with detailed calculation of the amount due to him in the light of the judgments of the Cuttack Bench of the CAT. According to the applicant, the reasons stated in the impugned order are unsustainable.

5. Respondents in the reply admitted the facts but contended that in Annexure A-8 judgment, there is no mention about payment of arrears. Hence, respondents have decided, after consultation with the Ministry of Finance, to allow the benefit of the scale of pay of Rs. 550-900 to the applicant in this case notionally w.e.f. the date of the judgment. According to respondents, the applicant retired from service, hence, he is not entitled to the benefit and the decision has been taken in consultation with the Ministry of Finance.

6. The applicant filed rejoinder.

7. After hearing learned counsel on both sides, we are satisfied that the only question to be examined in this case is whether there is proper implementation of Annexure A-8 judgment of the Cuttack Bench of the CAT. The operative portion of the judgment as extracted above makes very clear that the applicant is entitled to draw pay in the revised scale of Rs. 550-900/- w.e.f. the date on which he has been appointed in the Selection Grade of Jr. Engineer. There is no dispute with regard to the date. There is also no indication for granting the benefit of the judgment on a notional basis and actual benefit from different dates as indicated in the impugned order. There was no indication in the judgment restricting/payment ^{the} to be made to the applicant from the date of judgment, ^{only.} All these reasons as indicated in the impugned order and the reply filed by

the respondents are ideas imported by the respondents, but not supported by the operative portion of the judgment. As indicated above, the applicant is entitled to get revised pay from the date of his appointment in the Selection Grade till his retirement.

8. We are not very happy with the way in which the grievance of the retired government employee has been considered by the Government. When there is clear direction in the judgment Annexure A-2 regarding entitlement of the applicant, and right to draw the revised pay in the selection grade post, there is no legal justification for denying the same to the applicant, compelling him to approach the Tribunal again. The decision in Annexure A-4 is unsatisfactory; we quash the same.

9. In the result the application is allowed and we direct the second respondent to fix the pay of the applicant from the date of his appointment in the Selection Grade Jr. Engineer, without any further delay in the matter. The applicant is directed to file a statement containing details of the amount due to the applicant on the basis of including the judgment/~~xxx~~ pensionary benefits. The statement shall be prepared and filed before the second respondent within two weeks from the date of receipt of the copy of this judgment. If such a statement is received from the applicant as directed above, the second respondent shall make necessary verification in the light of the above observation and pass orders for disbursement of the arrears including retiral benefits, without any further delay. It goes without saying that the applicant is entitled to 18% interest for the arrears to be paid to the applicant from the date of Annexure-2 judgment i.e. 15.9.1989.

10. There shall be no order as to costs.


(P.V. VENKATAKRISHNAN)
MEMBER (ADMINISTRATIVE)


(N. DHARMADAN) 17.11.93
MEMBER (JUDICIAL)