

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 506 1990
T. A. No.

DATE OF DECISION 31.7.1991

1. KK Krishnan &
2. PC Gopi _____ Applicant (s)

Mr. KV Raju _____ Advocate for the Applicant (s)

Versus

UOI rep. by the Secy., Min. of Respondent (s)
Comms., New Delhi & 5 others

Mr. K. A. Cherian, ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. A.V. Haridasan - Judicial Member

The Hon'ble Mr.

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? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

In this application filed under Section 19 of the Administrative Tribunals Act, the two applicants who are Telephone Supervisors (operating) have prayed that, it may be declared that they are eligible for stepping up of their pay to that level of pay of their junior namely, the 6th respondent and for a direction to the respondents that the applicants' pay be stepped up by advancing the date of the first increment as February, 1986. The first applicant entered service on 7.4.1966 and the second applicant entered service on 19.12.1966 as Telephone Operators. They were promoted to the higher grade with effect from 30.11.1983 with dates of next increment as 1.11.1984. and

...2/-

1.1.1985 respectively. On their promotion, their pay was fixed at Rs.455/- in the pre-revised scale. After implementation of the 4th pay revision, the applicants' pay was fixed at Rs.1440/- with the date of next increment as 1.11.1986 and 1.1.1987 respectively. The 6th respondent joined the department on 12.2.1968 and was promoted to the next higher grade with effect from 12.2.1984. Her pay in the pre-revised scale was fixed at Rs.440/-, but on implementation of the 4th pay revision, her pay was fixed at Rs.1440/- with a date of next increment as 1.2.1986. On the ground of that the 6th respondent who joined the department and was promoted to the next higher grade on latter dates than the dates on which the applicants 1 and 2 joined the department and were promoted to the next higher grade, got higher pay than the applicants with effect from 1.2.1986, the applicants claim that they are entitled to the date of their next increment postponed as 1.2.1986. The applicants have based their claim on note 4 of Rule 7 and second proviso to Rule 8 of Central Civil Service (Revised Pay) Rules, 1986 as quoted at page 6 of the Original Application. The applicants 1 and 2 made representations to the third respondent claiming that the date of their first increment may be advanced to 1.2.1986, so that, their pay can be stepped up to the level of pay of the 6th respondent, who according to the applicants is junior to them in service. In reply to these representations the applicants received the Annexure-C & E

orders negating their claim on the ground that the 6th respondent, Smt. Vilasini Amma was not junior to the applicants. Aggrieved by the rejection of their claim, the applicants have filed this application.

2. In the reply statement, the respondents have indicated that, though the applicants joined the services under the respondents earlier than the 6th respondent, since they came to Thodupuzha division on their own request later than the date on which the 6th respondent joined in Thodupuzha division, they became juniors to the 6th respondent, and that the claim of the applicants that they are entitled to have the date of their first increment preponed cannot there^{to} be sustained. The respondents have also produced the gradation list of Telephone Operators, Thodupuzha Telephone Division as on 31.3.1989, in which the 6th respondent is placed at Sl.No.14 while the applicants 1 and 2 are placed at Sl.No.49 and 42 respectively. It is worthwhile to extract the two provisions relied on by the applicants in support of their claim. Note 4 of rule 7 of Central Civil Services (Revised Pay) Rules, 1986 reads as follows:

"Where in the fixation of pay under sub rule (1) pay of a Government servant, who, in the existing scale was drawing immediately before the 1st day of January, 1986 more pay than another Government servant junior to him in the same cadre, gets fixed in the revised scale at a stage lower than that of such junior, his pay shall be stepped up to the same stage in the revised scale as that of the junior."


and the second proviso to Rule 8 reads as follows:

"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 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 the Junior happens to be earlier."

As the provisions which is called ⁱⁿaid is the second proviso to Rule 8 of the Central Civil Services (Revised Pay) Rules, 1986, let us see whether the applicants satisfy the conditions stipulated therein in order to have the same date of increment as the 6th respondent granted to them. In order to claim such a relief, the applicants must be senior to the 6th respondent and they must be getting more pay before their pay was revised. It is not disputed that both the applicants were getting more pay before revision. But the first requirement that the 6th respondent must be junior to the applicants is not satisfied because, according to the gradation list of Telephone Supervisors/Operators ~~in the gradation list~~ ² ~~that~~ applicants 1 and 2 are 49 and 42 respectively. Though the applicants joined the service earlier, they have lost their seniority in the grade on account of the fact that they came on request transfer to Thodupuzha division later than the date on which the 6th respondent joined in that division. Though unfortunate, such

incidents occur in service which have to be suffered by the incumbents concerned with equanimity.

3. In view of what is stated in the foregoing paragraph, I find that, there is no merit in the application and hence, I dismiss the same without any order as to costs.



31-7-91

(A.V. HARIDASAN)
JUDICIAL MEMBER
31.7.1991