

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ORIGINAL APPLICATION No.557 OF 2006

Dated the 20. th June, 2008

CORAM:

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE Dr. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

K. Vikraman,
S/o Kunjunni Pankicker,
Stenographer,
O/O the Sr. Supdt. of Post Offices,
Ernakulam Dn.
Residing at Vandana House,
Elamakkara PO, Ernakulam.

(By Advocate :Mr P.C. Sebastian)

.. Applicant

-Versus-

1. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
2. The Postmaster General,
Central Region, Kochi-682 018.
3. The Senior Accounts Officer,
Office of the Postmaster General,
Central Region, Kochi-682 018.
4. The Union of India,
Represented by Secretary to Govt. of India,
Ministry of Communications & IT,
Dak Bhavan, New Delhi.

Respondents

(By Advocate :Mrs. Aysha Youseff, ACGSC)

The application having been heard on 13th June, 2008,
the Tribunal delivered the following on 20-06-08.

ORDER

(Hon'ble Dr.KBS Rajan, JM)

This is a peculiar case. While affording the two financial upgradations to the applicant, the net result is that the applicant is not benefited even by a single rupee, while the order states, vide Annexure A-3 "On upgradation under the ACP scheme, pay of an employee shall be fixed under the provisions of FR 22(1)(a)(1) subject to a minimum financial benefit of Rs 100/- as per the DOPT OM No. 1/6/97 - Pay-I dated July 5, 1999. This financial benefit shall be final and no pay fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade."

[2] Now the facts capsule: The applicant was appointed as a stenographer on 13-09-1974 in the then scale of Rs 330 - 560/. This pay scale was revised w.e.f. 01-01-1986 as Rs 1200 - 2040 and the applicant's pay fixed at Rs 1470/. He was afforded the first promotion as Selection Grade under the 20% quota in the revised scale of Rs 1400 - 2300 on 23-02-1987 and pay fixed at Rs 1560/. On regularization, the pay was fixed at Rs 1,600/- in the above pay scale with date of next increment on 01-03-1988. On the implementation of the pay scale as recommended by the V Central Pay Commission, the pay of the applicant was fixed at Rs 6,050/- in the revised pay scale of Rs 5,000 - 8000 as on 01-01-1996 and pay fixed at Rs 6,200/- w.e.f. 01-03-1996. Later on, on 29-09-1999 he was promoted to Grade in the scale of Rs 1400-2600 (pre-revised) vide Annexure A-2. It appears that before the above promotion was given effect to, the respondents on 05-05-2000 (Annexure A-3)

afforded the benefit of two financial upgradations under the ACP Scheme, effective from 09-08-1999 and as per the same, the applicant was placed in the grade of Rs 5000 - 8000 as the first financial upgradation and 5,500 - 9,000 on the second financial upgradation, both of them being with effect from 09-8-1999. The fixation was as under:-

Pay in the grade of Rs 4000 - 6000 as on 9-8-1999

Revised under ACP I in the scale of Rs 5,000 - 8000

(As pay of the applicant as on that date was Rs 6,375/- which was under the pay scale for a selection grade in the scale of Rs 4,500 - 7,000, stated to have been erroneously fixed at Rs 5,000 - 8000/-, on abolition of selection Grade, the applicant's pay scale was worked out in the scale of Rs 4,000 -6000 the pay scale in the hierarchical post of Stenographer, Ordinary Grade and the difference of Rs 375/- treated as personal pay.) Pay fixed in the scale of Rs 5000 - 8000 was Rs 6,200 plus Rs 175 as personal pay.

Again in the pay scale of Rs 5,500 - 9,000 the pay was fixed at Rs 6,375/- with the date of next increment as 01-08-2000.

[3] The grievance of the applicant is that the pay scale prior to ACP benefit being extended to him was Rs 6,375/- and that after the two financial upgradations was again Rs 6,375 /-. The applicant had requested for proper fixation under the ACP scheme or in the alternative, to afford him his normal promotion w.e.f. 29-09-1999 and the details of calculation as he claimed is as under:-

(1) On upgradation to ACP-I-Pay as on $9.8.99-6375+125=6500$ next stage	Rs.6650
On upgradation to ACP-II -py as on $9.8.99-6650+150=6800$ "	Rs.6900
(2) On promotion to Gr.II w.e.f. 29.9.99-pay as on 29.9.99 in the existing scale of pay $4500-125-7000 - \text{Rs.}6375+125=6500$ - Next stage	Rs.6650
On grant of ACp-II after Gr.II promotion as done in the cases of 2 officials Mentioned above-Pay as on 29.9.99 in the scale of $\text{Rs.}5000-150-8000-6650+150=6800$ -Nextstage	Rs.6900

(3) On promotion to Gr I in the scale of Rs.5500-175-9000 w.e.f. 21.12.2001
 As per memo No.ST/51-6/99 dt.2.8.2002, pay as on 21.12.2001 in the
 Scale of pay Rs.5000-150-8000 - Rs.6950 - Next stage Rs.7075
 Re-fixation on the date of next increment on 1.9.02 -
 Rs.7100 + 150 = 7250 - Next stage Rs.7425

The above is the sum and substance of the entire OA, reply, rejoinder and the Additional reply. The respondents in their additional reply stated that the pay scale of Rs 5,000 - 8000 afforded to the applicant on the replacement pay of erstwhile pay Scale of Rs 1400 - 2300 was erroneous as it ought to have been Rs 4,500 - 7,000 and under F.R. 31A, such erroneous fixation of pay could be rectified.

[4] Counsel for the applicant argued that the purpose of ACP is to have financial upgradation, which has been denied to the applicant. Even if he relinquishes the ACP benefits, he would be entitled to better pay and pay scale and this has also not been provided for.

[5] Counsel for the respondents submitted that the pay fixed at per the calculations contained in Annexure R-1 is correct and the applicant is not entitled to any extra benefits.

[6] Arguments were heard and documents perused. A look at the sequence of promotions made prior to August, 1999 when ACP was introduced with their attendant pay scale/replacement pay scale would be essential. The same is as under:-

In 1974 the applicant was appointed as stenographer in the scale of Rs 330 - 560/- . The replacement scale of the same under the IV Pay Commission and V Pay commission are respectively Rs 1,200 - 2040 and Rs 4,000 - 6,000/- . Under the IV CPC the pay was fixed at Rs

1470/- which was stepped up to Rs 1,500/- at par with the pay of a junior.

The applicant was appointed in the selection grade on 25-02-1987 and his pay was fixed on 01-03-1987 would be Rs 1560/-.

The applicant was promoted as Grade II Stenographer with effect from 29-09-1999. Of course, w.e.f. 09-08-1999 the ACP was introduced.

[7] When the Fourth Central Pay Commission's recommendations were made and accepted by the Government of India w.e.f. 1-1-1986, the "selection grade" was abolished from all non-gazetted cadres in all the departments of the Government of India all over India.

[8] The Fourth Pay Commission recommended abolition of Selection Grade. As observed in the case of *P.U. Joshi v. Accountant General, (2003) 2 SCC 632*, "As and when the selection grade was abolished w.e.f. 1-1-1986, then the existing Selection Grade Supervisors, who were already holding the higher scale of post identical to Assistant Accounts Officers' cadre, were allowed to continue in that scale treating their pay as "personal pay" to them. The Respondents state that on the basis of the above decision of the Government the pay of the applicant was fixed at the scale of Rs 4,000 - 6000 being the pay scale attached to the ordinary grade of Stenographer and while fixing the pay in that grade at the stage of Rs 6,000/- the balance of the pay i.e. Rs 375/- had been treated as 'personal pay' of the applicant. When the ACP was introduced and the applicant's pay was to be fixed in the grade of Rs 5,000 - 8,000/- it was the pay of Rs 6,000/- that was taken into account

[Signature]

and the pay fixed at Rs 6,200 and in so far as the personal pay was concerned, corresponding to the increase, a like amount was deducted and the extent of personal pay was kept at Rs 175/-.

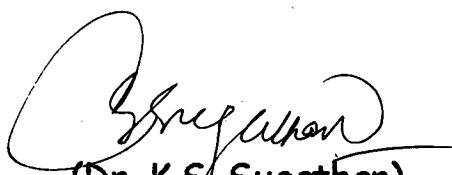
And again, from Rs 6,200/- when the pay was fixed in the scale of Rs 5,500 - 9,000/- the same was at Rs 6,375/- and thus the personal pay was brought down to zero. In other words, both prior to and posterior to the ACP benefit, the applicant's pay remained the same. The question is, whether the same would be justified and legal. Whether the pay in the scale of Rs 4,000 - 6000 taken at Rs 6,000/- is first of all correct. Had the applicant been kept at Rs 4,000 - 6000 scale, maximum of the scale would be covered in 20 years as the annual increment was Rs 100/-, whereas, the applicant had put in more than 24 years in the grade of steno ordinary grade, his date of initial appointment being 13-09-1974. Thus, under the normal circumstances, he is entitled to two stagnation increments, @ one increment per every two years of stagnation. That itself would have taken the pay of the applicant up to Rs 6,200/. The pay would then be Rs 6,200 + Rs 175 as personal pay. But, the ACP scheme provides that there shall be at least Rs 100/- increase. This would then mean that the pay plus personal pay should be Rs 6,350 + Rs 100/. This could be possible by placing the applicant at Rs 6350 as pay in the higher scale of Rs 5,000 - 8000 and the balance Rs 100/- as personal pay. If this be fixed in the 2nd ACPO scale of Rs 5,500 - 175 - 9,000/- ensuring another hike of at least Rs 100/-, then the pay plus personal pay should be a minimum of Rs 6,575/-. Thus, the pay in the scale of Rs 5,500 - 9,000 shall be Rs 6,725/- as on 9-8-1999, as it is

that stage which is the next higher stage. There shall then be no personal pay. Against this, the pay fixed was only Rs 6,375/- which is not in conformity with the scheme that there shall be a hike of at least Rs 100/- at every ACP.

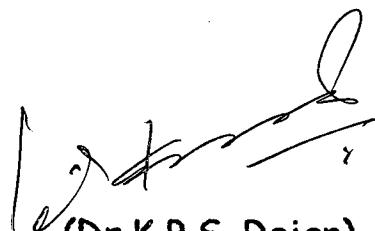
[9] Thus, the pay of the applicant as on 09-08-1999 shall be fixed at Rs 6,725/- in the pay scale of Rs. 5,500 - 9,000 and the subsequent increments would be Rs 6,900 as on 01-08-2000; Rs 7,075 as on 01-08-2001, Rs 7,250 as on 01-08-2002 and Rs 7,425/- as on 01-08-2003 and so on.

[10] In view of the above, the OA is allowed to this extent that the respondents shall fix the pay of the applicant at Rs 6,725/- as on 09-08-1999 in the scale of pay of Rs 5,500 - 9000 and the pay shall be incremented @ Rs 175/- every subsequent year. Respondents are directed to pass suitable orders and any difference in pay shall be paid to the applicant as arrears of pay and allowances. This order shall be complied with, within a period of four months from the date of communication of this order.

Dated the 20th June, 2008



(Dr. K.S. Sugathan)
Administrative Member



(Dr. K.B.S. Rajan)
Judicial Member