

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.69/93

DATE OF DECISION : 13.10.1993

1. K.K.Vijayan
2. T.R.Gopalakrishnan
3. K.Vasu
4. K.J.Prabhavathy Amma
5. N.Sreenivasa Rao .. Applicants

Mr.K.R.B.Kaimal .. Adv. for applicants

V/s

1. Postmaster General,
Central Region, Kochi.
2. Superintendent of Post Offices,
Alappuzha.
3. Postmaster, HPO,
Alappuzha.
4. The Deputy Director of Accounts
(Postal), Kerala,
Trivandrum-10. .. Respondents

Mr.Joy George, ACGSC .. Adv. for respondents

CORAM : The Hon'ble Mr.N.Dharmadan, Judicial Member

JUDGMENT

MR.N.DHARMADAN, JUDICIAL MEMBER

Five applicants jointly filed this application under Section 19 of the Administrative Tribunals Act for quashing Annexure-I order passed by the Superintendent disposing of the representation filed for removing/anomaly in the pay on account of grant of benefit to their junior Shri Kuttappa Panicker on the basis of Annexure-V judgment of this Tribunal.

2. The facts are as follows: Applicants 1 to 4 are Lower Selection Grade Postal Assistants and the 5th applicant voluntarily retired from service as Lower Selection Grade Postal Assistant on 22.10.1988. While the applicants were working as Postal Assistants in the scale of pay of Rs.260-480, the Director General issued an order granting higher grade under the Time Bound One Promotion Scheme, with effect from 30.11.1983. As per Annexure-II order applicants and similarly situated Postal Assistants were given the benefit of promotion to the next higher grade. The said order shows, Shri T.S.Kuttappa Panicker and Smt. A.B.Vimala Devi, ^{as 4}/juniors to the applicants. But they were also given higher grade. After the general pay revision with effect from 1.1.86 the applicants' dates of increment are as follows:-

- 1st applicant	.. 1.11.1986
- 2nd applicant	.. 1.10.1986
- 3rd applicant	.. 1.8.1986
- 4th applicant	.. 1.11.1986
- 5th applicant	.. 1.7.1986

Applicants' pay in the revised scale of Rs.1400-2300 was fixed at Rs.1440/- as on 1.1.86 with the date of next increment as shown above. The pay of applicants junior Shri Kuttappa Panicker was also fixed at Rs.1440/- as on 1.1.86 with date of next increment on 1.2.86 thus raising his pay to Rs.1480/- as on 1.2.86. Since there was an anomalous situation the applicants filed representation for getting stepping up of the pay of the applicants vis-a-vis the pay of their junior Shri Kuttappa Panicker. Considering their representations, applicants date of increment was antedated to 1.2.1986 thus raising their pay on par with their junior Shri Kuttappa Panicker on 1.2.86. Later, by a subsequent order the pay of Shri Kuttappa Panicker was reduced to Rs.1440/- with effect from 1.1.86 with date of next

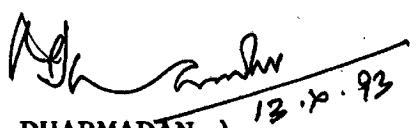
increment as 1.9.1986 instead of 1.2.86. Thereafter, in order to bring parity with Shri Kuttappa Panicker, the applicant's pay was also reduced on the ground that as a result of the order reducing the pay of Shri Kuttappa Panicker there is an anomaly in the pay of the applicants vis-a-vis Shri Kuttappa Panicker. However, Shri Kuttappa Panicker challenged the shifting of his date of increment from 1.2.86 to 1.9.86 in OA 918/91 before this Tribunal. It was heard and allowed on 6.3.92 by directing that the applicant's pay should be restored to its original level and the recovery initiated against him was also quashed. Accordingly the respondents restored the date of increment of Shri Kuttappa Panicker to 1.2.86 raising his pay to Rs.1480/- As a result of restoration of the date of increment of Shri Kuttappa Panicker to 1.2.86 the anomaly in the pay of the applicants vis-a-vis Shri Kuttappa Panicker revived. So the first applicant filed Annexure-VI representation for stepping up of his pay vis-a-vis his junior Shri Kuttappa Panicker. Other applicants also filed identical representations. All these representations were considered and rejected by the impugned order, Annexure-I.

3. The order, Annexure-I, is thoroughly unsatisfactory and passed without any application of mind. The respondents have not mentioned the background on the basis of which the claim of the applicants was not considered. They should have considered the representations taking into consideration the prior history and background of the case. Originally the applicants were given the benefit of stepping up of their pay in the promoted post considering the anomaly in their pay vis-a-vis the pay of Shri Kuttappa Panicker. When Shri Kuttappa Panicker's pay was reduced, the stepping up of pay given to the applicant was cancelled. However, when Shri Kuttappa Panicker's pay was

reduced, he has filed OA 918/91 before this Tribunal and obtained an order in his favour. Pursuant to the judgment the pay of Shri Kuttappa Panicker was restored. All along the pay position of the applicants had a bearing with the pay of their junior, Shri Kuttappa Panicker. They were given the benefit of stepping up considering the higher pay of their junior. After the grant of stepping up of the pay of the applicants the respondents illegally reduced the pay of Shri Kuttappa Panicker and that is made clear in the judgment in OA 918/91. Under these circumstances, when it is established that Shri Kuttappa Panicker is entitled to maintain the original position which was the basis of the stepping up of pay of the applicants, it goes without saying that the applicants are also to be relegated to earlier position. In fact, the applicants have stated the details in the representation. But these facts were not noticed before passing the impugned order. Under these circumstances, it is the duty of the respondents to see that the applicants' pay should not be reduced and they are entitled to maintain the original position.

4. In the result, I see considerable force in the arguments advanced by the learned counsel for the applicants and I am of the view that Annexure-I order is unsustainable and it is to be quashed. I do so. I direct the respondents to refix the pay of the applicants on par with the pay of Shri Kuttappa Panicker at Rs.1480/- as on 1.2.86 and grant them all consequential benefits including arrears. This shall be done within a period of three months from the date of receipt of a copy of this judgment. It goes without saying that so far as the applicant No.5 is concerned, the respondents are bound to refix his pension on the basis of above observations and findings.

5. The application is allowed as above. No costs.


(N. DHARMADAN)
JUDICIAL MEMBER
13.10.93

LIST OF ANNEXURES:

1. Annexure-I .. Copy of letter No.BB/Misc dated 2.12.92.
2. Annexure-V .. Copy of judgment dated 6.3.92 in OA 918/91.
3. Annexure-II .. Copy of order No.ST/5/1/1/84 dated 27.2.1984.
4. Annexure-VI .. Copy of representation dated 20.6.92.