

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.8/98

WEDNESDAY, THIS THE 30th DAY OF AUGUST, 2000.

CORAM

HON'BLE MR. A. M. SIVADAS, JUDICIAL MEMBER.
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

M.V. Rajan S/o Velayudhan
Madathumkal House,
Chiyaram
Trichur-682 026

Applicant

By Advocate Mr. M.R. Rajendran Nair

Vs.

1. The General Manager,
Telecom
Trichur
2. The Chief General Manager,
Telecom
Trivandrum
3. Union of India represented by Secretary
to Government of India
Ministry of Communications
New Delhi.

Respondents

By Advocate Mr. Varghese P. Thomas

The application having been heard on 4.8.2000 the Tribunal delivered the following on 30.8.2000.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant seeks the following reliefs:

- i) To quash Annexures A4, A6 and A7.
- ii) To declare that the applicant is entitled to have his pay stepped up to the level Rs. 1600/- with effect from 1.1.86, by advancing the date of his annual increment in the revised scale of Rs. 1400-2300, as 1.1.86 and to direct the respondents 1 and 2 to refix the pay of the applicant accordingly with all consequential benefits including revised fixation of pay in the higher scale and revision of



pensionary benefits and to direct the respondents 1 and 2 to draw and disburse arrears of pay and allowances and the arrears of difference in pensionary benefits due to the applicant together with interest at 18% per annum with effect from the date on which those amounts became due.

iii) Grant such other relief as may be prayed for and the Tribunal may deem fit to grant and

iv) Grant the costs of this Original Application.

2. Applicant who was working as a Senior Telephone Supervisor under the respondents retired on 30.6.96 while drawing a basic pay of Rs. 2150/- with effect from 1.5.96. According to him he was rank No. 17 in the list of Telephone Operator/Telephone Supervisors of the Trichur Secondary Switching Area and Smt. N. Bhavaani was rank No. 19 in the list. Originally as on 1.1.86 the applicant's pay was fixed in the pay scale of Rs. 1400-2300 at Rs. 1560/with date of next increment as 1.10.86 raising his pay to Rs. 1600/-. When the applicant pointed out that his junior one N. Bhavani was granted fixation of pay at the stage of Rs. 1560/- as on 1.1.86 with next date of increment on 1.5.86 raising her pay to Rs. 1600/- the applicant was granted stepping up of pay by advancing his date of Annual increment to 1.5.86 as per A-1 memorandum dated 4.12.86. According to the applicant another junior Smt. B. Bhavani was originally granted pay fixation at the stage of Rs. 1560/- with the date of next increment on 1.1.87. In terms of A-2 OM dated 23.3.95 issued by the Government the pay of Smt. Bhavani Amma was fixed at Rs. 1560/- on 1.1.86 with the date of next increment as on

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1.1.86 itself. At this stage the applicant submitted A-3 representation dated 7.6.96 to the first respondent requesting to arrange stepping up of his pay on par with his junior Smt. N. Bhavani Amma. In reply to A-3 he was given A-4 reply dated 25.6.96 by the Accounts Officer informing him that as per rules stepping up of pay for second time was possible only with reference to the same junior with whom the earlier stepping up was done and the second time ante-dating of increment sought for by the applicant with that of Smt. B. Bhavani Amma was not permissible. Applicant submitted further A-5 representation dated 29.8.96. He received A-6 reply dated 19.3.97 from the second respondent. His further representation was also replied by A-7 reply dated 28.7.97. Aggrieved by A4, A6 and A7 applicant has approached this Tribunal seeking the reliefs mentioned earlier. According to him A-4, A6 and A7 were illegal. His case is that when the pay of the applicant was stepped up with respect of the pay of Smt. N. Bhavani as per A1 orders Smt. B. Bhavani Amma was not drawing higher pay than him. When Smt. B. Bhavani Amma was granted refixation and consequent higher pay w.e.f. 1.1.86 his right to get stepping up of his pay to that level arose. This could not be denied to him on the ground that second time ante-dating was not permissible under the Rules or that second time stepping up was permissible only with reference to that junior. Applicant was in fact not asking for a second time stepping up. His claim was for granting him stepping up as per rules with reference to the junior whose pay was revised with retrospective effect. In fact what was required was only a correction advancing the date of increment of the applicant in the revised scale as 1.1.86.

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3. Respondents filed reply statement resisting the claim of the applicant. It was submitted that pay of the applicant was originally stepped up with reference to pay of his junior Smt. P.K. Bhavani w.e.f. 1.5.86 as per his request. His further request to step up his pay on par with the pay of another junior Smt. N. Bhavani Amma was not permissible in accordance with R1(a) dated 31.3.84. Respondents submitted the seniority position of the applicant, Smt. N. Bhavani Amma and Smt. P.K. Bhavani as follows:

S1.No.	Name	Designation	Date of birth	Date of appointment
17.	M.V.Rajan	STS	17.6.1938	6.8.1961
18.	N.Bhavani	STS Amma	10.2.1940	6.3.1961
19.	P.K.Bhavani	STS	16.1.1941	6.8.1961

They submitted that the pay of the applicant was stepped up on par with his junior Smt. P.K. Bhavani w.e.f. 1.5.86 and that the name of the junior was shown wrongly as Smt. N. Bhavani Amma instead of Smt. P.K. Bhavani in the O.A. They admitted that the pay of another junior of the applicant Smt. N. Bhavani Amma was fixed originally on 1.1.86 at Rs. 1560/- with the date of next increment as 1.1.87. Her pay was subsequently revised to Rs. 1600/- on 1.1.86 with date of next increment increasing her pay to Rs. 1640/- on 1.1.87 in terms of A2. They submitted that here again the name of the junior was wrongly mentioned as Smt. B. Bhavani Amma in the O.A. instead of Smt. N. Bhavani Amma. It was submitted that as per A-5 representation dated 29.8.96 there was no upward revision of pay in the case of Smt. P.K. Bhavani who was applicant's first junior due to any administrative orders. As per R2 clarificatory order the applicant was not entitled to step up his pay with



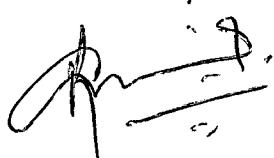
reference to the pay of second junior Smt. N. Bhavani Amma even if the first junior Smt. P.K. Bhavani was no more in service because Smt. N. Bhavani Amma (second junior) was senior to Smt. P.K. Bhawani (first junior). They submitted that A4, A6 and A7 were in order as per Rules on the subject. Hence they prayed that the O.A was not maintainable and hence liable to be dismissed with costs.

4. Heard learned counsel for the parties. Learned counsel for the applicant submitted that due to some typographical error in some portion of the O.A. instead of stating the name of the junior as Smt. P.K. Bhavani, the name was shown as Smt. N. Bhavani Amma and instead of showing as Smt. N. Bhavani Amma the name was shown as Smt. B. Bhavani Amma has been mentioned.

5. We have given careful consideration to the submissions made by the learned counsel for the parties and submissions made by the learned counsel for the parties and on record. The only ground on which the claim of the applicant is resisted by the respondents is on the basis of R-1(a) (stated wrongly as R-2 in the reply statement) which is an OM issued by the department of Personnel & Training No. F/4/7/83-Estt.(P)-1 dated 31.3.84. There is no dispute between the parties that the applicant's pay was stepped up to that of his junior Smt. P.K. Bhavani by advancing his date of increment to 1.5.86 by R-1(b) order dated 4.12.86. It is also not in dispute that another junior to the applicant Smt. N. Bhavani Amma whose pay was initially fixed as Rs. 1560/- on 1.1.86 and whose date of next increment was fixed as on 1.1.87, by virtue of A-2 Govt. of India instructions got an increment in the revised pay scale on 1.1.86 itself thus making her pay as Rs. 1600/- on



1.1.86. Against this, the applicant whose date of increment was initially on 1.10.86 and after stepping of pay with Smt. P.K. Bhavani became 1.5.86, again applied for stepping up of his pay with reference to his junior Smt. N. Bhavani Amma whose date of increment was 1.1.86 and who started drawing Rs. 1600/- from that date. We do not find any justification for the respondents to deny the benefit to the applicant. Had the applicant known that Smt. N. Bhavani Amma's pay would be fixed at Rs 1600/- w.e.f. 1.1.86 granting increment in the revised pay scale on that date itself he would have claimed stepping up of pay with reference to the pay of Smt. N. Bhavani Amma at the first instance itself. But her pay became Rs. 1600/- w.e.f. 1.1.86 only by virtue of A2 OM dated 23.3.95. We are of the view that the reason advanced by the respondents invoking R-1(a) OM dated 31.3.84 is not tenable because the said OM was issued on 31.3.84 whereas the applicant is claiming stepping up and advancement of date of increment under Rule 8 of CCS (RP) Rules. Nothing has been brought on record by the respondents to show that the OM dated 31.3.84 has any applicability to the CCS (RP) Rules 1986. Further as pointed out by the learned counsel for the applicant, the Bombay Bench of this Tribunal in O.A. No. 435/94 T.P. Shyamalan Vs. Union of India and Others (1995) 31 ATC 701) has held the conditions imposed on this OM dated 31.3.84 are unreasonable. We also notice that in this particular case the claim for stepping up of pay is not made as a result of fixation of pay on promotion under FR 22(a)(1) (earlier FR 22-C). The stepping up of pay is being claimed as a result of fixation of pay in the revised scale of pay (Fourth Pay Commission Pay scales w.e.f. 1.1.86) under Rule 8. Hence, the claim of the applicant has to be examined with reference



to those Rules. We also note that in A-4 impugned order or in the other two impugned orders viz. A-6 and A-7, no reference to R-1(a) OM or any other Rule or order is made.

6. In the result, we are of the view that the rejection of the request of the applicant made in his A-3 and A-5 representations by A-4, A-6 and A-7 orders dated 25.6.96, 19.3.97, and 28.7.1997 respectively cannot be sustained. Accordingly, we set aside and quash the A-4, A-6 and A-7 impugned orders. We direct the second respondent to consider the request of the applicant for stepping up of his pay with reference to his junior Smt. N. Bhavani Amma contained in A-3 and A-5 representations afresh strictly in accordance with rules on the subject and dispose of the same by a detailed order within two months of the date of receipt of the copy of this order. If as a result of such fresh consideration, the applicant becomes entitled for the benefit of advancement of his date of increment to 1.1.86, -the date of increment of Smt. N. Bhavani Amma, the consequential monetary benefits flowing therefrom by way of arrears of pay and allowances and arrears of retiral benefits due to the applicant should be paid to him within a period of four months from the date of receipt of a copy of this order.

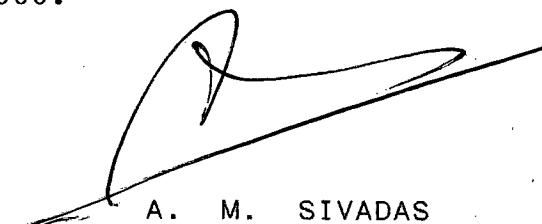
7. The O.A. stands partially allowed as above with no order as to costs.

Dated the 30th August, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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A. M. SIVADAS
JUDICIAL MEMBER

List of Annexures referred in this Order

- A1 True copy of the Memo No.Q 966/84 dated 4.12.86 issued by the Accounts Officer, Office of Telecom District Engineer, Trichur.
- A2 True copy of OM No.1(2)-EIII/95 dated 23.3.95 issued by the Under Secretary to the Govt. of India Ministry of Finance, Department of Expenditure.
- A3 True copy of the representation dated 7.6.96 submitted by the applicant to the first respondent.
- A4 True copy of the letter No.Q 966/II/29 dated 25.6.96 issued by the Accounts Officer (Work & Planning), Office of the 1st respondent to the applicant
- A5 True copy of the representation dated 29.8.96 submitted by the applicant to the 1st respondent.
- A6 True copy of letter No.Q-966/II/39 dated 19.3.97 issued by the Accounts Officer (Works & Planning) Office of the 1st respondent to the applicant.
- A7 True copy of the letter No.Q-966/II/43 dated 28.7.97 issued by the Accounts Officer (Estt.) Office of the 1st respondent to the applicant.

- R1(a) True copy of Govt. of India DP&AR O:M No.F 4-7/83 Esstt. (P-1) dated 31.3.84
- R1(b) True copy of stepping up order No. Q.966/94 dated 4.12.86