

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 9/90
T. A. No. XXXXXX

199

DATE OF DECISION 21.12.1990

M.A.V Lakshmanan Applicant (s)

M/s. Thomas Antony & Titus Mani Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
the Director General,
Indian Council of Agricultural Research, New Delhi and another

Mr.V.V.Sidharthan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. To be circulated to all Benches of the Tribunal? ☒

JUDGEMENT

(Hon'ble Shri S.P Mukerji, Vice Chairman)

In this application dated 16th December 1989 the applicant who retired from the Central Inland Fisheries Research Institute under the ICAR on 31.7.86 has challenged the fixation of the revised pay as on 1.1.86 at Rs.4000/- and prayed that the benefit of stagnation increment in accordance with the provisions of Central Civil Services (Revised Pay) Rules with interest may be given to him. The brief facts of the case are as follows.

2. The applicant was working in the grade of Rs.1350-1700 and reached the maximum of the pay scale of Rs.1700/- as on 1.7.83. He was brought over to the revised pay scale of Rs.3000-100-3500-125-5000 with effect from 1.1.86. As on 31.12.85 his basic pay was admittedly Rs.1700/- and he was in receipt of dearness allowance of Rs.1581/- and two interim reliefs totalling to Rs.250/- . ~~Rs.1581/-~~ ~~Rs.250/-~~ With the addition of 20% of the basic pay

his total ^{emoluments} for purposes of pay fixation in the revised scale of Rs.3000-5000 came to Rs.3871/-. Accordingly his pay was fixed at the next available stage of Rs.3875/-. According to ^{statement of the} respondents since he was stagnating in the grade of Rs.1300-1700 his pay as on 1.1.86 was fixed at the next higher stage giving another increment of Rs.125/- and his basic pay was thus fixed at Rs.4,000/-. The applicant's plea is that the additional increment of Rs.125/- over and above his basic pay of Rs.3875/- was given under Note 3 below Rule 7(1) of the Revised Pay Rules and not as stagnation increment under the 3rd and 4th provisos of those Rules⁸. In the counter affidavit, however, the respondents stated that the question of giving him any benefit of stagnation increment does not arise as "there were thousands of Government employees prior to 4th Pay Commission's Report who had been stagnating in the maximum of their pay scales for a number of years". They have categorically stated that 3rd and 4th provisos to Rule 8 of the Revised Pay Rules are not applicable to his case.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Note 3 below Rule 7(1) of the CCS (Revised Pay) Rules 1986 reads as follows:-

NOTE 3.- Where in the fixation of pay under sub-rule(1) the pay of Government servants drawing pay at more than five consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first five consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner, namely:-

- (a) for Government servants drawing pay from the 6th up to the 10th stage in the existing scale - By one increment;
- (b) for Government servants drawing pay from the 11th up to the 15th stage in the existing scale, if there is bunching beyond the 10th stage - By two increments;
- (c) for Government servants drawing pay from the 16th up to the 20th stage in the existing scale, if there is bunching beyond the 15th stage -By three increments."

Further Rule 8 of those Rules with the four provisos read as follows:-

"8. Date of next increment in the revised scale - The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub-rule (1) of Rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale.

Provided that in cases where the pay of a Government servant is stepped up in terms of Note 3 or Note 4 or Note 7 to sub-rule (1) of Rule 7, the next increment shall be granted on the completion of qualifying service of twelve months from the date of the stepping up of the pay in the revised scale ;

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:

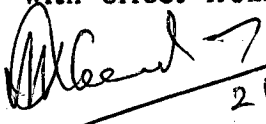
Provided also that in the case of persons who had been drawing maximum of the existing scale for more than a year as on the 1st day of January, 1986, next increment in the revised scale shall be allowed on the 1st day of January, 1986:


Provided also that in the case of Government servants who were in receipt of ad hoc increment on their stagnating for more than two years at the maximum of the existing scale of pay as on the 1st day of January, 1986 one more increment in the revised scale shall be allowed to them on the 1st day of January, 1986, in addition to the increment already allowed under the preceding proviso".
(emphasis added)

The respondents have admitted that the applicant was given one additional increment of Rs.125/- per month to bring up his basic pay in the revised pay scale from Rs.3875/- to Rs.4000/- per month with effect from 1.1.86. They have also stated that the provisos to Rule 8 were not applicable to the applicant. Thus they have ^{indirectly} conceded that it is under Note 3 below Rule 7(1) that one increment ^{of} Rs. 125/- was given to him as he was drawing pay in the unrevised pay scale at Rs.1700/- per month which was between 6th and 10th stage of that scale. Then the question ^{arises} ~~comes~~ when will his next increment be due. The 3rd proviso to Rule 8 as quoted above makes it clear that after his ^{initial} pay has been fixed ^{as on 1.1.86} under sub-rule 7(1), if he had stagnated in the old pay scale for ^{more} than one year, his next increment in the revised pay scale will accrue on 1st January 1986 itself, which in other words means that he will be given one more increment as on 1.1.86 itself if he had stagnated in the old scale for more than one year as on 1.1.86. Since the respondents themselves have stated that the applicant reached the basic pay of Rs.1700/- in the scale of Rs.1300-1700 on 1.7.83, on 1.1.86 he had stagnated at that stage for two and a half years. Accordingly he would be entitled to one more ^{under the 3rd proviso to Rule 8} increment ^{beyond what} he was granted under Rule 7 of the Revised Pay Rules.] The contention of the learned counsel for the

applicant that he should be entitled to one more increment under the ^{fourth} ~~last~~ proviso to Rule 8 as quoted above is not acceptable as admittedly he was not in receipt of any adhoc increment for stagnating for more than 2 years at the maximum of the old pay scales on 1.1.86.

4. In the conspectus of facts and circumstances we allow the application in part, set aside the impugned order at Annexure A and direct the responents to allow the applicant one more increment of Rs.125/- thus bringing up his basic pay in the revised pay scale to Rs.4125/- with effect from 1.1.86. There will be no order as to costs.


21.12.90
(A.V HARIDASAN)
JUDICIAL MEMBER


21.12.90
(S.P MUKERJI)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A 13/91

O. A. No.
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9/90

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in

DATE OF DECISION

24.12.91

M.A.V. Lakshmanan substituted Applicant (s)
Mrs.Girija V.Lakshmanan and 3 others

Mr.Thomas Antony Advocate for the Applicant (s)

Versus

Union of India represented by
the Director General, Indian Council of Respondent (s)
Agricultural Research ,New Delhi and another

Mr.V.V.Sidharthan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this review application dated 26th January 1991 the applicant who retired from the Central Inland Fisheries Research Institute under the ICAR on 31.7.86 has challenged the fixation of the revised pay as on 1.1.86 at Rs.4000/- and prayed that the benefit of stagnation increment in accordance with the provisions of Central Civil Services (Revised Pay) Rules with interest may be given to him. The brief facts of the case are as follows

2. The application was partially allowed by our judgment dated 21.12.90 by granting the applicant only one additional increment of Rs.125/- A review application No.13/90 was filed by the application praying that the applicant should be given one more increment in accordance with the 4th proviso to Rule 8 of the CCS(Revised Pay) Rules, 1986. In support of his contention the applicant enclosed a copy of the Ministry of Finance's O.M. of 17th August, 1989.

3. We have heard the arguments of the learned counsel for both the parties on the review application. The additional increment in accordance

with the 4th proviso to Rule 8 of the Revised Pay Rules is admissible to those who were in receipt of adhoc increment on their stagnating for more than two years at the maximum of the pre-revised scale of pay. It is not the applicant's case that he was in receipt of adhoc increment before 1.1.86. In any case, stagnation increments are not admissible to those holding posts, the maximum of which exceed Rs.1200/- per month (vide Govt. of India, Ministry of Finance O.M of 27th July 1983 and 2nd September 1983 referred to as Government of India's decision No.14 below F.R 26 in Swamy's Compilation of F.R.S.R, Part I-General Rules, Eighth Edition). Since the applicant was stagnating at the maximum of the pay scale of Rs.1350-1700 he was not entitled to any adhoc stagnation increment. The order dated 17th August 1989 put up by the review applicant at Annexure-II to the review application extends the benefit of additional increment admissible to the recipients of adhoc stagnation increments who have been stagnating for more than two years to those also who were not in receipt of the adhoc increment as they ~~have~~^{have} completed exactly two years of service instead of more than two years of service. The operative para of the O.M of 17th August, 1989 reads as follows:-

"2. A question whether in cases where Government servants stagnate in the pre-revised scale of pay exactly for one/two years as on 1.1.1986, additional increment(s) can be granted on 1.1.1986 under the aforesaid proviso to rule 8 of the C.C.S(RP) Rules, 1986 has been under consideration of the Government of India. The President is now pleased to decide that in such cases where a Government servant had stagnated exactly for one/two years at the maximum of the pre-revised scale of pay as on 1.1.86, he shall be granted additional increments on 1.1.1986 under the third/fourth proviso to Rule 8 of the CCS(RP) Rules, 1986 action to extend the CCS(RP) Rules, 1986 is being taken separately."

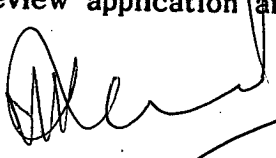
Since the aforesaid order extends the benefit only to that category of Government servants who would have received stagnation increment

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if they had stagnated for more than one or two years instead of exactly one or two years as they actually did as on 1.1.86, the applicant who had never been in receipt of a stagnation increment nor was entitled to such an increment before 1.1.86, cannot be entitled to the additional increment contemplated in the 4th proviso, as aforesaid. In any case the O.M. of 1989 is not applicable to him.

4. In the facts and circumstances we see no merit in the review application and dismiss the same.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

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