

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 96/2001

Wednesday, this the 19th day of March, 2003.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

L. Dennison, S/o Loppus,
HSG II Sorting Assistant,
Head Record Office,
Thiruvananthapuram,
residing at Grace Mount,
Kavadithalakkal,
Karakulam P.O.,
Thiruvananthapuram.

... Applicant

(By Advocate Mr. G. Sasidharan Chempazhanthiyil)

Vs

1. Senior Superintendent,
RMS TV Division,
Thiruvananthapuram.
2. Chief Post Master General,
Kerala Circle,
Thiruvananthapuram.
3. Director General,
Postal Department,
New Delhi.
4. Union of India, rep. by its
Secretary,
Ministry of Communications,
New Delhi.

... Respondents

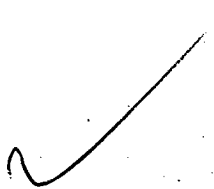
(By Mr. T.C. Krishna, ACGSC)

The application having been heard on 19.3.2003, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN


The applicant, HSG II Sorting Assistant since retired from service has filed this application impugning the order dated 15.5.1998(Annexure A2) proposing to re-fix his pay w.e.f. 30.11.1983 annulling the stepping of pay granted to him on par with his junior Shri K. Sreedharan Nair by order dated 17.3.1993 and proposing to recover the over payment, as also the order



dated 22.12.2000(A4) by which recovery of excess payment made to him w.e.f. 30.11.1991/83 is ordered. The facts of the case are briefly stated as follows :-

The applicant's junior, Shri K. Sreedharan Nair on account of local officiating promotion started getting more pay than him. The applicant submitted a representation seeking stepping up of pay. There was no response. Therefore the applicant filed OA No.1624/92 before this Bench of the Tribunal. The OA was disposed of by the Tribunal directing the respondents to consider the applicant's claim. On the basis of the above decision, the applicant's pay was stepped up to Rs.485/- w.e.f. 30.11.1983 by the order dated 17.3.1993. The present grievance of the applicant is that on the basis of the ruling of the Apex Court in Civil appeal No.8658/1996, respondents are attempting to annul the stepping up of pay made on 17.3.1993 and to recover the amount paid to the applicant on the basis of the stepping up of pay. It is alleged in the application that as no appeal was filed against the order of the Tribunal directing the respondents to consider representation, and as stepping up of pay was given to the applicant without any condition, the action taken by the respondents to annul stepping of pay and to recover over payment made on the basis of a subsequent ruling of the Apex Court is illegal and unjustified. With the above allegations, the applicant seeks to set aside Annexure A2 and A4 orders and for a direction to the 1st respondent not to recover the amount paid to the applicant consequent on stepping up of pay w.e.f. 30.11.1983.

2. The respondents seek to justify the impugned orders on the ground that the Apex Court in Civil Appeal No.8658/1996 declared that stepping of pay on par with junior cannot be ordered in cases where the junior started getting higher pay consequent on



local officiating promotion. By issue of impugned orders respondents have only rectified the mistake committed, contend the respondents.

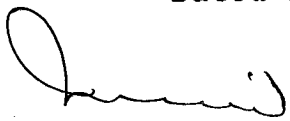
3. We have heard counsel on either side and perused the materials placed on record.

4. The learned counsel for the parties states that an identical issue was considered by this Bench of the Tribunal in OA 780/1998 wherein it was held that subsequent ruling of the Apex Court would not entitle the respondents to reopen the issues which already become final inter parties. The above ruling was followed by this Bench of the Tribunal in OA No.64/2001 wherein in an exactly similar case, impugned orders of similar nature have been set aside. The counsel on either side stated that the decisions in these 2 cases may be followed in this case also.

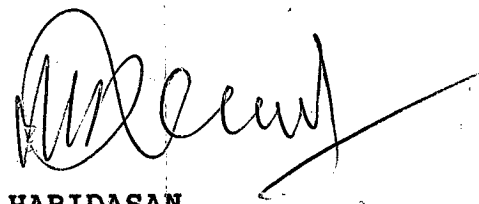
5. Accordingly, in view of the decision taken in OA No.64/2001, which is an identical case, we find that the impugned orders Annexure A2 and A4 are liable to be set aside.

6. In the result, the application is allowed. The impugned orders Annexure A2 and A4 are set aside. No costs.

Dated 19th March, 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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