

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 104 of 1995.

Thursday this the 19th day of December 1996.

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

K.G. Sulochana,
W/o Kumaran, 'Mayanikethan',
Sivarama Menon Road, Ernakulam,
Kochi-682 018. (Working as H.S.G.
Postal Assistant, Ernakulam Head
Post Office.)

.. Applicant

(By Advocate Shri K.S. Bahuleyan)

Vs.

1. The Senior Superintendent of
Post Offices, Ernakulam Division,
Kochi-682 011.
2. The Director of Postal Services,
Office of the Post Master General,
Central Region, Kochi-682 016.
3. The Director General of Posts,
Department of Posts, Dak Bhavan,
New Delhi.
4. The Senior Post Master,
Ernakulam Head Post Office, Kochi.
5. Union of India represented by the
Secretary to Government,
Ministry of Communications,
New Delhi.

.. Respondents

(By Advocate Shri Varghese P. Thomas, ACGSC).

The application having been heard on 19th December 1996,
the Tribunal on the same day delivered the following:

O R D E R

Applicant is aggrieved by the refusal of the
respondents to step up her pay on pay revision to that of her
junior on the date of increment of the junior i.e. 1.3.86.

2. Applicant entered into service in the Posts and
Telegraphs Department as Postal Assistant in Cannanore
Division on 10.11.67. She was permanently transferred

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to Ernakulam Postal Division under Rule 38 of the P&T Manual Vol.IV as per order dated 28.3.78. She was promoted to the Lower Selection Grade under the Time Bound One Promotion Scheme on 30.11.83 and her pay on promotion was fixed at Rs.425/- with the date of next increment to Rs.440/- on 1.11.84. While she was drawing Rs.445/- her pay was fixed at Rs.1440/- on 1.1.86 with the date of next increment to Rs.1480/- on 1.11.86 under the revised pay rules.

3. Raman, Lower Selection Grade Postal Assistant of Ernakulam Division entered into service as Postal Assistant on 23.6.68. He was transferred to Ernakulam Division under Rule 38 of the P&T Manual Vol.IV with effect from 7.4.77. He was promoted to Lower Selection Grade under the Time Bound One Promotion Scheme on 23.3.84, whereupon his pay was fixed at Rs. 425/- with the date of next increment to Rs.440/- on 1.3.85. Thus, when Raman was drawing Rs.440/- on 31.12.85 his pay was fixed at Rs.1440/- with the date of next increment to Rs.1480/- on 1.3.86, with effect from 1.1.86, under revised pay rules. Thus, Raman draws more pay than the applicant from March to October every year from 1986. Applicant submitted representations to the authorities concerned projecting her grievances and the last representation made by the applicant was rejected as per A-4 which is under attack.

4. Applicant seeks to quash A-4 order and also for a declaration that she is entitled to step up of her pay to that of Shri Raman, Lower Selection Grade Postal Assistant, Ernakulam Division with effect from 1.3.86.

5. In the reply statement filed by the respondents the contentions raised are thus: Raman is senior to the applicant in the gradation list due to the fact that Raman came to

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Ernakulam Division with effect from 7.4.77 whereas the applicant came to Ernakulam Division on 28.3.78. The pay of the applicant cannot be stepped up to that of Raman who is senior to the applicant and therefore, A-4 is valid.

6. It is true that both the applicant and Raman came to Ernakulam Division on transfer under the Rule 38 of P&T Manual Vol. IV and the applicant was junior to Raman. But subsequently, the applicant was promoted as per time bound one promotion on completion of 16 years of total service. While the applicant was promoted to Lower Selection Grade under One Time Bound Promotion Scheme on 30.11.83, Raman continued in the very same post of Postal Assistant. The pay of the applicant was refixed on promotion as Lower Selection Grade. No difficulty arose till 1.1.86. As on 1.3.86 the applicant's pay was fixed at Rs.1440/- on the basis of the fixation on 1.1.86. The respondents have taken a contention that both the applicant and Raman opted to switch over to the revised pay scale with effect from 1.1.86 and so their pay had to be refixed taking into account of the pay that was drawn by them as on 31.12.85 in the pre-revised scale. According to respondents, as per formula prescribed for fixation of revised pay in the new scale both the applicant and Raman got their pay fixed at the stage of Rs.1440/- in the new scale with effect from 1.1.86, and as the date of increment of Raman is 18th of March, he got increment in the new scale with effect from 1.3.86 while the applicant's date of increment being 1.11.86 she got the next increment only from 1.11.86. This fixation is not in tune with the 2nd proviso to Rule 8 of Central Civil Service (Revised Pay) Rules 1986, considering the fact that the applicant was promoted by that time and was not junior to Raman.

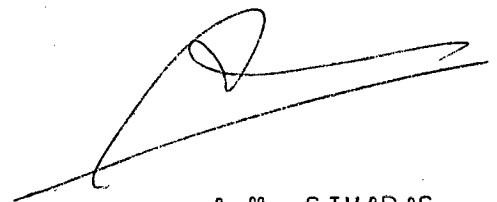
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If the 2nd proviso to Rule 8 of the Central Civil Service (Revised Pay) Rules, 1986 was applied correctly considering the fact stated above, this anomaly would not have occurred. That being so, the rejection of the applicant's claim as per A-4 is not valid and sustainable.

7. As far as the seniority is concerned it has been held by the Apex Court in Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra and Others (1990)2 SCC 715) that the seniority is to be counted from the date of appointment. That being so, the date of appointment of the applicant on promotion to the Lower Selection Grade is to be taken into consideration which has not been taken into consideration by the authority concerned while fixing the pay of the applicant in the revised pay scale.

8. Accordingly, the original application is allowed quashing A-4 and declaring that the applicant is entitled to step up of her pay to that of K. Raman, Lower Selection Grade Postal Assistant to Ernakulam Division with effect from 1.3.86. No costs.

Dated this the 19th day of December 1996.



A.M. SIVADAS
JUDICIAL MEMBER

List of Annexure:

1. Annexure A4: The true copy of the letter No. PF/KGS dated 22/4/94 of the 4th Respondent communicating Director General of Post Letter No.2-58/93-PAP dated 28-2-'94.