

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

ORIGINAL APPLICATION NO.110/87

P.M. Mukundan Adiyodi,
Junior Engineer, Micro Wave,
Maintenance, Telephone
Bhavan, Cannanore-670 001,
Kerala.

-- Applicant

Versus

1. Director General, Telecommunications; Department of Telecommunications, Sanchar Bhavan, 20 Ashoka Road, New Delhi-1.

2. Accounts Officer, Southern Telecom Sub Region, Ernakulam.

3. The General Manager, Maintenance, Southern Telecom Region, Madras.

-- Respondents

M/s G. Mohan & P.V. Surendranath -- Counsel for applicant

Mr. P.V. Madhavan Nambiar, SCGSC -- Counsel for Respondents

CORAM

Hon'ble Shri G. Sreedharan Nair-Judicial Member

O R D E R

The applicant was working as Transmission Assistant in the Department of Telecommunications. While so he was promoted to the cadre of Junior Engineer with effect from 3.11.81. Consequent upon the promotion the Second Respondent fixed the pay of the applicant ~~encl~~ ^{at} Rs.500/- with effect from 3.11.81 and ~~encl~~ ^{at} Rs.530/- with effect from 1.1.82, the former fixation being under Clause (i) of F.R. 22(a) and the latter under FR 22-C. While he was drawing pay accordingly, by the order dated 27-9-85, a revision has been made in respect of the pay under which with effect from 3.11.81 his pay was fixed

at Rs.488/- and with effect from 1.1.82 at Rs.500/-.

It is alleged by the applicant that according to the revised fixation while he was drawing a basic pay of Rs.600/- it has been reduced to Rs.560/-. By the order the Pay Section was also directed to take action for recovery of the alleged overpayment. The applicant alleges that accordingly a sum of Rs.2,000/- has been recovered from his pay and at present monthly Rs.100/- is being recovered. He alleges that his juniors working in the lower cadre of Transmission Assistant are receiving higher pay than him. He prays for quashing the order dated 27-9-85 and to direct the second respondent to pay him back the amounts recovered pursuant to the order.

In the reply filed on behalf of the respondents it is stated that as the scale of pay of the Transmission Assistant (Selection Grade) was revised from Rs.425-640 to Rs.425-750, the scale of pay of the post of Junior Engineer remained on Rs.425-700, which has led to the anomaly. It is stated that the question of removal of the anomaly was considered and it has been decided to refix the pay under Clause (ii) of FR 22(a).

This is a case where the applicant while working

as Transmission Assistant was duly promoted to the cadre of Junior Engineer with effect from 3.11.81, and as a result thereof his pay in the promoted post was fixed by the order dated 13.10.82. Such fixation was made on proper application of the principles contained in Clause (i) of FR 22(a) and in FR 22-C. Accordingly the pay of the applicant was fixed ~~at~~ Rs.500 with effect from 3.11.81 and ~~at~~ Rs.530/- with effect from 1.1.82. He was drawing pay on that basis. Nearly three years thereafter the revised pay fixation has been made by the impugned order. It is stated that it was necessitated on account of the anomaly that arose due to upward revision of the scale of pay of the Selection Grade Transmission Assistant from Rs. 425-640 to Rs.425-750, while the scale of the promotion post of Junior Engineer remained same ~~at~~ Rs.425-700. The respondents have produced the copy of the order dated 27-7-84 issued by the Director General of Posts and Telegraph (copy of which is at Exbt.R1A). What is stated there is that the pay originally fixed under FR 22-C may be refixed under Clause (ii) of FR 22(a) from the date of promotion. However, the impugned order does not

purport to be so. At any rate, when the pay was originally fixed on the premise that the appointment to the new post involves the assumption of duties of responsibilities of greater importance it cannot be altered years thereafter, as if the appointment does not involve such assumption.

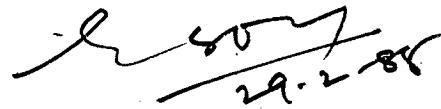
Counsel of the applicant invited my attention to the decision of the Bangalore Bench of this Tribunal in G.Babu Vs Divisional Engineer(Telegraphs) and others (Application No.417/87(F) - Order dated 4.8.87). On identical facts it was held that when the pay was originally fixed on the premise that the promotion post carries higher responsibilities, it cannot later be reviewed in the light of events which happened thereafter.

In the instant case it has also to be taken note of that as a result of the revised fixation, juniors to the applicant in the grade of Transmission Assistant are receiving higher pay than him. He has referred to two such specific instances and has produced copies of their pay fixation statement to substantiate his averment. This is an added reason for vacating the revised fixation.

In the result the order dated 27-9-85 refixing the pay of the applicant is hereby quashed. The

respondents shall not recover any amount from the salary of the applicant on account of such fixation, and amounts already recovered shall be reimbursed to him within a period of two months from the date of receipt of copy of this order.

This application is allowed as above.



29-2-88

(G. Sreedhan Nair)
Judicial Member
29-2-1988

Index: Yes/~~No~~

Su.