

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.138/97

Wednesday, this the 19th day of January, 2000.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

K.Sivadasan,
Higher Selection Grade Telegraph Assistant,
Central Telegraph Office, Quilon-1.

-Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. Union of India represented by
Secretary to Government,
Ministry of Communications,
New Delhi.
2. The Director General,
Post and Telegraphs,
New Delhi.
3. The Chief General Manager,
Telecom,
Kerala Circle,
Trivandrum.

- Respondents

By Advocate Mr PR Ramachandra Menon, ACGSC

The application having been heard on 19.1.2000, the Tribunal
on the same day delivered the following:

ORDER


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

The applicant after about ten years of service in the
Army as a Combatant Clerk, was discharged from service with
effect from 5.7.73. He was re-employed in the Telecom
Department with effect from 9.12.74 as a Time Scale Clerk in
the scale of pay of Rs.260-480. He claimed fixation of his
pay in accordance with office memo dated 11.4.63. His
request was not favourably considered by the competent
authority and his pay as Combatant Clerk was fixed at Rs.284,
purportedly in accordance with the O.M. dated 25.11.58 on

the ground that the O.M. dated 11.4.63 of the Government of India, Ministry of Finance, Department of Expenditure is not applicable to his case as he was appointed not as Lower Division Clerk, but only as a Time Scale Clerk. The matter was further agitated by the applicant. He filed O.A.1277/95 which was disposed of taking note of the fact that the matter was barred by limitation but permitting the applicant to make a representation. Pursuant to the above order of the Tribunal, the applicant made a further representation which was disposed of by an order dated 23.9.96 R-2 again rejecting the claim of the applicant. The gist of the order dated 23.9.96 now produced by the respondents as R-2 was communicated to the applicant by the impugned order dated 2.1.97 R-1. The applicant aggrieved by this, has filed this application.

2. The respondents resist the claim of the applicant on the ground of limitation. On merits, it is contended that the applicant having been not appointed as Junior Clerk or as Lower Division Clerk, but only as a Time Scale Clerk in scale of pay of Rs.260-480, the benefit of the O.M. dated 11.4.63 cannot be extended to him.

3. On a careful scrutiny of the entire materials placed on record and after hearing the learned counsel on either side, we find no justification in the stand taken by the respondents that the applicant just because he was appointed as a Time Scale Clerk, would not be entitled to the benefit of the O.M. dated 11.4.63. The benefit of increment equal



to the number of years of service in defence as Combatant Clerk has been extended to LDC/Junior Clerks in civil departments irrespective of the pay drawn as Combatant Clerk by equating the status of Combatant Clerk with that of LDC/Junior Clerks etc. The benefit of the OM has been subsequently extended to the Telephone Operators, Telegraphists etc. of the Telecom department carrying pay scale of Rs.260-480 also which is the same as the scale of pay of Time Scale Clerk. The post of Time Scale Clerk was in the scale of pay of Rs.260-480 whereas that of the LDC was in the scale of pay of Rs.260-400. However, the post of Time Scale Clerk has been treated as lower than the UDC and can be considered only on par with Junior Clerk or LDC. Since the Government of India has extended the benefit of the O.M. to post like Telegraphists and Telephone Operators in the time scale of Rs.260-480, we find no justification in not granting the same benefit to the applicant, who was appointed as a Time Scale Clerk. The beginning of the scale of LDC as also of Time Scale Clerk is the same i.e. Rs.260, the difference is only in the end of the scale. The duties and responsibilities of LDC and Time Scale Clerk are comparable and at par. Therefore, the respondents should have taken a reasonable interpretation of the instruction and granted to the applicant the benefit of fixation of pay applying the conditions stipulated in A-8 memo dated 11.4.63.

4. In the result the impugned order A-1 is set aside. The respondents are directed to refix the initial pay of the

applicant with effect from 9.12.74 as Time Scale Clerk giving him the benefit of increments in accordance with the O.M. dated 11.4.63 A-8. Necessary orders shall be issued and the arrears flowing therefrom with effect from the date three years prior to the filing of this application shall be made available to the applicant. The above direction shall be complied with within three months from the date of receipt of a copy of this order. No costs.

Dated, the 19th of January, 2000.


J.L. NEGI
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

trs/2112000

List of Annexures referred to in the Order:

1. A-1: True copy of the letter No.A-1/96-97/1453 dated 2.1.97 issued by Sub Divisional Engineer, Central Telegraph office, Quilon.
2. A-8: True copy of the Office Memorandum No.F.6(8)-E-III/63 dated 11.4.1963 issued by the Government of India Ministry of Finance, Department of Expenditure, New Delhi.
3. R-1: True copy of the verdict dated 4.10.95 in O.A.1277/95 of this Tribunal.
4. R-2: True copy of the Order No.3/7(17)/96-PAT dated 23.9.96 issued by Asst. Director General(Telecom), New Delhi.