

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 158/99

Dated the 5th Day of March, 1999

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI R.K. AHOOJA, ADMINISTRATIVE MEMBER

K.M. Kunchikrishnan Nair,
S/o P.N. Kutty Raman Nair,
R/o Mullamangalath House,
P.O. Pilasseri, Kunnamangalam Via,
Calicut-673 571. ... Applicant

By Advocate: Shri Sivan Madathil

Versus

1. Union of India,
Rep; by Secretary to Govt.
Dept. of Posts,
Ministry of Communications,
Dak Bhavan, Sansad Marg,
New Delhi-110 001.
2. Director General (Posts),
Dak Bhavan, Sansad Marg,
New Delhi-110 001.
3. Chairman,
Postal Services Board,
Dept. of Posts,
Ministry of Communications,
Dak Bhavan, Sansad Marg,
New Delhi-110 001.
4. Chief Post Master General,
Kerala Circle,
Trivandrum,
5. Senior Superintendent of Posts,
Dept. of Posts,
Calicut Division,
Calicut. ... Respondents

By Advocate: M.R. Suresh, ACGSC

Having heard the application on 1.3.1999,
the Tribunal delivered the following order

O R D E R

HON'BLE SHRI R.K. AHOOJA, ADMINISTRATIVE MEMBER

The applicant who joined as Extra Departmental
Postal System (ED) on 18.11.1965 retired as ...
Branch Post Master, E.D. Sub Post Office, Pilasseri
on 8.5.1997. He submits that various pending

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demands of the Extra Departmental Agents are referred by the Government to the Justice Charanjeeth Talwar Commission. The said Commission gave its recommendations which it advised should be implemented w.e.f. 1.1.1996. The applicant is however, aggrieved by the letter dated 23.12.1998, Annexure A-1, whereby while payment of arrears of basic monthly allowances have been allowed from 1.1.1996, various other allowances have been given only from prospective effects or from various dates in 1998. In particular, the applicant has been deprived of the benefit of enhancement in ex-gratia gratuity from Rs. 6,000/- to Rs.18,000/- only from the date of issue of the order i.e. 21.12.1998. Similarly, Time Related Continuity allowance (TRCA) has been enhanced from 1.3.1998 and Severance Amount on retirement-death amounting to Rs. 30,000/- w.e.f. 21.12.1998 also. The applicant has sought a direction to the Government to sanction various allowances and ex-gratia gratuity w.e.f. 1.1.1996.

2. We have heard Shri Sivan Madathil, learned counsel for the applicant and Shri M.R. Suresh, ACGSC for the respondents. It has been urged on behalf of the applicant that as in the case of the recommendations of the Fifty Pay Commission for Central Government Employees, the Government is bound to give effect to the improvements recommended by the Justice Talwar Committee also

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from 1.1.1996. It was argued that by giving ex-gratia gratuity and Severance Allowance effected from the date of issue of the orders viz., 21.12.1998 all those who retired in the intervening period since 1.1.1996 have been deprived of the benefit recommended by the Committee. It was also pointed out that the E.D. Agents have been agitating before this Tribunal as well as before the High Court of Kerala for a direction to the respondents to take an early decision on their demands for improved service conditions and that the stand of the respondents has always been that the matter has been referred to the Justice Talwar Committee. In this situation, the respondents it was urged duty bound to implement all the recommendations w.e.f. 1.1.1996.

3. We have considered the matter carefully. It is in our view a matter of Executive Policy as to how, when and in respect of whom better service conditions will be granted. The scope of interference by the Tribunal is limited to only where there is a question of discrimination between equally placed persons. The applicant admittedly retired before the impugned orders of the respondents.

The Supreme Court in K.L. Rathee V. Union of India & Ors. JT 1997 (5) SC 698 held that the emoluments have to be calculated according to the Government Rules prevailing at the time of the retirement of employees. As held in Nakara's case if the methodology of calculation of retirement benefit is changed then of course the pensioners have to be treated alike e.g. whether the emoluments will be calculated on an

average of ten months or 30 months pay but this principle will not extend to the change in emoluments. The scope of intervention by the Tribunal in policy decisions involving financial implications has also been limited by the Hon'ble Supreme Court in its various decisions. Thus in Union of India and ors.

v. Tejram Parashramji Bombhate & Ors. JT 1991(2)

S.C. 572 it was observed that "no Court or the Tribunal could compel the Government to change its policy involving expenditure." Similarly,

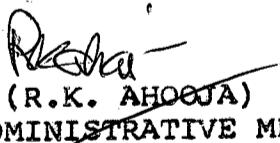
in State Fishery Officers' Association W.B. and Another Vs. State of W.B. and Another JT (1997)

8 SCC 65 it was held ^{That} "no direction can be given to the Government to grant monetary benefits contrary to its policy which falls within the realm of executive policy decision.

4. We therefore find that the respondents cannot be directed to change their decision as sought for by the applicant as obviously there will be monetary implications involved. O.A. is therefore dismissed at the admission stage itself.

No order as to costs.

Dated, the 5th March, 1999.


(R.K. AHUJA)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

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LIST OF ANNEXURE

1. Annexure A1: True copy of the order No.H4/R1gs dated 2312.98 issued by the 5th respondent.

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