

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.176/2003.

Friday this the 31st day of October 2003.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. A.Mohanakumar,
Group 'D' Office of the Director
of Accounts (Postal),
Trivandrum.
2. P.Binu,
Group 'D' Office of the Director
of Accounts (Postal),
Trivandrum. Applicants

(By Advocate Shri Thomas Mathew)

Vs.

1. Senior Accounts Officer (Administration)
Office of the Director of Accounts,
(Postal), Trivandrum.
2. Director of Accounts (Postal),
Kerala Circle, Trivandrum.
3. Chief Postmaster General,
Kerala Circle, Trivandrum.
4. Director General, Department of Posts,
New Delhi.
5. Union of India represented by its Secretary,
Department of Posts,
New Delhi. Respondents

(By Advocate Smt. K.Girija, ACGSC (R.1-5)

The application having been heard on 31st October 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicants, two in number, are aggrieved by Office Order dated 3.1.2000 (A2) issued by the first respondent in so far as their pay on regularisation as Group 'D' in the Postal Department is fixed at the minimum of the scale Rs.2550-55-2660-60-3200 although, as a matter of fact, they have

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been drawing basic pay of Rs.2900/- on par with Group 'D' scale as a result of their attaining the temporary status and the consequential treatment on par with Group 'D' employees. It would appear that both the applicants attained temporary status on 29.11.89 and that they were treated on par with temporary Group 'D' employees with effect from 29.11.92 on completion of three years of service with temporary status vide A-1 order dated 21.4.93. Thereafter, they have been getting their normal increments again on par with temporary group 'D' staff. Their grievance is that the annual increments earned by the applicants since the issue of A-1 order on par with temporary Group 'D' employees have been ignored while fixing their pay on regularisation. The applicants seek the following main reliefs:

- a) Call for the records leading to Annexure A2 and quash the same to the extent it fixes the pay of the applicants at Rs.2550/- on regularisation taking away the increments of Pay already drawn.
- b) Declare that the fixation of pay of the applicants to Rs.2550/- on regularisation taking away the increments of pay already drawn and paid is illegal, arbitrary, unfair and unjust and direct the respondents to refix the pay of the applicants from the date of regularisation with reference to the pay last drawn taking into account the increments of pay already drawn with all consequential benefits including arrears.

2. The respondents have filed a reply statement opposing the applicants' claim in the light of the O.M.No.49014/4/97-Estt.(C) dated 29.1.98(Annexure R1-A) issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training.

3. The applicant has filed a rejoinder pointing out that the matter is already covered by the order of this Tribunal in

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O.A.1373/99 dated 1.1.2001(A4) which has since been confirmed by the Hon'ble High Court of Kerala in O.P.No.13244/2001 by judgement dated 4.1.2002 (A5).

4. We have gone through the records and have heard Shri Thomas Mathew learned counsel for applicant and Mrs.K.Girija, learned ACGSC for the respondents. We notice that the issue is already settled by this Tribunal as per order in O.A.1373/99 dated 1.1.2001 which has been upheld by the Hon'ble High Court of Kerala in the judgement in O.P.13244/2001 dated 4.1.2002(A5). It would also appear that by A-6 order dated 21.3.2002, the respondents have since complied with the order of this Tribunal and the Hon'ble High Court. The legal position, therefore, is that non-reckoning of increments earned by the temporary status attained Group'D' officials while fixing their pay on regularisation in Group'D' is unsustainable. The very same issue has again been considered by this Tribunal in O.A.404/03 dated 10.7.2003 in the light of the earlier order of this Tribunal in O.A.1373/99 dated 1.1.2001 and the Hon'ble High Court's judgement cited above.

5. Respectfully following the findings of the Tribunal and the Hon'ble High Court of Kerala mentioned supra, we hold that the impugned A-2 order dated 3.1.2000 is liable to be set aside in so far as it fixes the applicants' pay at the minimum of the prescribed scale i.e.Rs.2550/- instead of the last pay drawn by the applicants. The respondents are directed to ascertain the records and find out what was the actual pay drawn by the applicants on the relevant date and re-fix their pay accordingly

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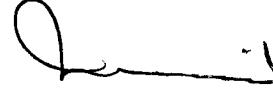
with effect from the date of the applicants' regularisation as Group 'D' officials. We also direct that, consequential benefits including monetary benefits flowing from the above findings shall be drawn and disbursed to the applicants within a period of 2 months from the date of receipt of a copy of this order.

6. O.A. is disposed of as above. No order as to costs.

Dated the 31st October, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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