

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.182/1999.

Wednesday this the 20th day of June 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

V.Unnikrishnan,  
Senior Superintendent,  
Telegraphic Traffic,  
Coimbatore.

Applicant

(By Advocate Shri G.D.Panicker)

Vs.

1. Union of India represented by  
Secretary to Government,  
Ministry of Communications,  
Sanchar Bhavan, New Delhi.
2. Chief Accounts Officer (TA),  
O/o Chief General Manager,  
Telecommunications,  
Thiruvananthapuram.
3. The Principal General Manager,  
Telecommunications,  
L.I.C.Building, 6th Floor,  
Trichy Road,  
Coimbatore - 18.
4. Chairman and Managing Director,  
Bharat Sanchar Negam Limited.,  
Sanchar Bhavan, New Delhi.

Respondents

(By Advocate Ms. Rajeswari A., ACGSC)

The application having been heard on 20th June 2001  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant filed O.A. 342/93 claiming stepping up  
of his pay on par with his juniors. The Tribunal allowed the  
O.A. by order dated 29.10.93 (A1). Though the respondents  
filed SLP against the decision of the Tribunal, and the SLP was  
dismissed. During the pendency of the SLP the pay of the

applicant was stepped up from Rs.2375/- to Rs.2600/- w.e.f. 16.8.1989 by order dated 24.10.94. He was paid arrears also. The grievance of the applicant is that, while the decision in O.A.342/93 has become final on dismissal of the SLP filed by the Department, the respondents are seeking to refix the pay of the applicant denying the stepping up allegedly relying on the ruling of the Apex Court in a judgement dated 12.9.1997 in Civil Appeal No.8658/96, Union of India and another Vs. R.Swaminathan wherein the Hon'ble Supreme Court has observed that a Senior Officer is not entitled to get his pay stepped up on par with his junior who has got higher pay on account of ad-hoc officiation on higher post to meet the exigencies of service.

2. The applicant has, therefore, filed this application impugning the orders A3, A4 and A6 under which the respondents have decided to cancel the stepping up and to recover the arrears paid to the applicant. It is alleged in the application that as the decision in O.A. 342/93 has become final, the respondents are not entitled to cancel the stepping up or to recover the arrears paid to the applicant.

3. The respondents resist the claim of the applicant on the ground that, in view of the ruling of the Supreme Court that, Senior officers are not entitled to have their pay to be fixed on par with juniors who are getting higher pay on account of ad-hoc officiation ordered to meet the exigencies of

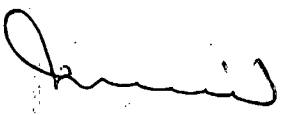
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service, the applicant whose pay has been stepped up under identical circumstances being not entitled to stepping up, the action taken is perfectly legal.

5. We have heard the learned counsel on either side. That the decision of the Tribunal in O.A.342/93 directing the respondents to grant stepping up of pay to the applicant on par with his juniors has become final on the dismissal of the SLP and that orders have been complied with also. It is well settled now that a decision which has been final between the parties will remain unaffected even if in a subsequent ruling of the Apex Court, the law declined is contrary. Therefore, the respondents are not entitled to reopen the matter and cancel the stepping up as it was done in obedience to a binding decision that has become final inter parties.

In the light of what is stated above, the application is allowed. The impugned orders are set aside to the extent it affects the applicant. No costs.

Dated the 20th June 2001.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDAS  
VICE CHAIRMAN

List of Annexures referred to in the order:

- A-1: A true Photocopy of order dated 29.10.93 in O.A. No.342/93 etc. of the Hon'ble C.A.T. Ernakulam Bench.
- A-3: A true photocopy of order No.LC/II/0-4/95 dated 28.4.98 from the 2nd respondent.
- A-4: A true photocopy of letter No.50-66/94-PAT dtd.13/2/98 from the first respondent
- A-6: A true copy of letter No.AP/10-Genl/Court Case/98/Audit objection dtd.1/2/99 from the 2nd respondent, address to GMTD, Coimbatore with copy to the applicant.