

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 204

1990

T. A. No.

DATE OF DECISION 27.2.91

S. Ramechandran _____ Applicant (s)

Mr. M. Rajagopalan _____ Advocate for the Applicant (s)

Versus

The Chief General Manager, Telecom, Trivandrum and others Respondent (s)

Mr. S. V. Balakrishna Iyer _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. To be circulated to all Benches of the Tribunal? NO

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is working as Telecom Office Assistant in the Postal Department. His grievance is that the special increment contemplated under Annexure A-1 for undergoing sterilisation operation is denied to him even though the conditions for eligibility are satisfied by him. He is challenging Annexure A-6 order of the first respondent rejecting his claim on the ground that he was not employed in the Telecom. Department at the time of the Tubectomy Operation of his wife.

2. The applicant is an ex-serviceman. While in 1 had 1 serving the Army, his wife undergone Tubectomy operation when she was 31 years old. As there was no scheme available in the Army the applicant has not availed of any

benefit for undergoing such operation. After his re-employment under the first respondent, he submitted Annexure A-2 representation to the Telecom. District Manager, Ernakulam along with relevant medical certificate requesting for special increment under the scheme. This was rejected as per Annexure-3 order dated 30.4.1988 of the Sub-Divisional Officer, Telegraph, Alway. The applicant again sent Annexure-4 and Annexure-5 representations to the District Manager, Ernakulam and Chief General Manager, Telecom, Trivandrum respectively. In reply to the same the applicant received the impugned order.

3. The respondents have filed a detailed reply statement denying the averments and the contentions raised in the application. It is stated that the medical certificate submitted by the applicant along with Annexure A-2 representation reveals that the Tubectomy operation was undergone in a private hospital and hence the requirements for the grant of the incentive are not satisfied in this case. Moreover, since the operation was performed prior to the applicant's entry in to the Telecom. Department, the applicant is not eligible for the reliefs. It is further stated that operations performed in private hospitals have been recognised only by Annexure R-1(A) order dated 16.12.1985 and hence the application is liable to be dismissed.

4. The ground for denial of the special incentive based on a policy decision of the Government as contained in the impugned order is that the applicant was not an

2

employee of the Telecom. Department at the time of the Tubectomy operation undergone by the applicant's wife.

This ground cannot be supported in the light of the materials available in this case.

5. Annexure A-1 contains the policy statement of the Government to promote the small family norms among Central Government servants. The employees within the productive age group, viz. in the case of male employees 50 years or below and female employees 45 years and below, should undergo sterilisation operation for becoming eligible for the concession. The only restriction in that order is that the concession would be "admissible only to employees who undergo the sterilisation operation on or after the date of issue of these orders." The date of issue of the order is 4.12.1979. This is further notified by Annexure R-1(A) clarifying that even if the operation was conducted in private hospitals, the Government servant would be eligible for the incentive increment provided the operation was undergone after the crucial date viz. 4.12.79.

The relevant portion is extracted below:

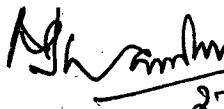
"These instructions take effect from the date of issue of these orders, in other words, the employees would be eligible to draw the special increment on the basis of the above decision from the first of the month following the date of issue of these orders. There is no objection to the extension of benefits of these orders to past cases where the sterilisation operations have been performed after 4th December, 1979 and subject to the employees being otherwise eligible for the same."

6. A reading of Annexure A-1 with R-1(A) it is clear that it is not necessary that at the time of operation the Government servant should be an employee of the Telecom. Department as stated in the impugned order. Any Central Government employee satisfying the conditions mentioned

in Annexure A-1 read with Annexure R-1(A) would be eligible for the special incentive increment contemplated in the policy statement.

7. The denial of the benefit of incentive increment to the applicant is based on a ground unsupportable. The Tubectomy operation was undergone in the instant case in 1981 after the crucial date fixed for the eligibility of the concession and admittedly the applicant was a Central Government employee at that time. He was serving in the Army from 6.2.1965 to 28.2.1982. Thereafter, he was appointed on 1.5.1983 in the Telecom Department. Since the applicant was a Government servant at the relevant time and he fulfilled all the eligible criteria for getting incentive increment contemplated in Annexure A-1, the applicant is entitled to succeed.

8. Accordingly, we quash Annexure A-6 and direct the respondents to grant the incentive increment contemplated in Annexure A-1 read with Annexure R-1A with arrears from the date of filing of the representation i.e. 31.1.1989. This should be done within a period of three months from the date of receipt of a copy of this judgment by the respondents. The application is allowed. There will be no order as to costs.


(N. DHARMADAN)

JUDICIAL MEMBER

27.2.91


(S. P. MUKERJI)

VICE CHAIRMAN

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