

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 24 of 1991
T. A. No.

DATE OF DECISION 25-9-1991

Senior Divisional Personnel Applicant (s)
Officer, S. Railway, Palakkad & 3 others

M/s MC Cherian & TA Rajan Advocate for the Applicant (s)

Versus

PV Sankara Narayanan & 5 others Respondent (s)

Mr CP Menon (Authorised Agent) Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. AV Haridasan, Judicial Member

~~The Hon'ble Mr.~~

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

JUDGEMENT

In this application filed under Section 19 of the Administrative Tribunals Act, the ^{first} applicant, the Senior Divisional Personnel Officer, Palakkad and 3 others have challenged the validity, propriety and correctness of the orders passed by the 6th respondent, the Central Government Labour Court, Kozhikode in CP(C) Nos.98, 99, 100, 101 & 125 of 1988 disposed of by a common order dated 24.3.1990 at Annexure-3.

2. Respondents 1-5 filed CP(C) Nos.98, 99, 100, 101 & 125 of 1988 before the 6th respondent under Section 33.c(2) of the Industrial Disputes Act claiming certain amounts mentioned in the Annexure-2 to their applications as difference between

the pay and allowances due to them on their reinstatement as the Hon'ble High Court of Kerala had set aside the order of their termination of service and what was actually paid to them as backwages. Annexure-1 is a copy of the application submitted by the first respondent before the Central Government Labour Court. In the Annexure-2 to this application, the first respondent had given a statement showing the break up figures on which he had based his claim. Similar applications were filed by the respondents 2 to 5 also. From 22.8.1972 the respondents 1-5 were reinstated in service and from that date onwards they were, according to their averment, paid salary @ Rs.70/- per month and allowances proportionately while according to them, they were entitled to pay @ Rs.73/-. Therefore, for the period between 22.8.1972 to 31.12.1972 each of the applicants had claimed Rs.13/- as difference in pay and the corresponding amount of D.A.

Thereafter, according to the respondents 1-5, on 1.1.1973 when the Third Pay Commission Report was implemented, as they were getting pay @ Rs.73/- in the pre-revised scale, their pay should have been fixed @ Rs.202/- while it was fixed only at Rs.196/- at the minimum of the scale of Rs.196-232. So each of the applicants before the Labour Court had worked out the amount of difference allegedly due to them upto 31.12.1983. The applicants contested the claim of the respondents 1-5. They contended that on reinstatement, arrears of wages were correctly paid to the respondents, that the corresponding

stage at which their pay could be fixed taking their pre-revised pay at Rs.73/- was only Rs.196/- that therefore they had got what was really due to them and that therefore the applications had to be dismissed. The Labour Court rejecting the contention, allowed the application by the impugned order directing the applicants to pay to the respondents 1-5 the various amounts mentioned in the operative portion of the impugned order. It is challenging this order of the 6th respondent that this application has been filed. It has been averred in the application that the 6th respondent has committed grave error in not understanding the contention of the respondents and also in holding that the case of the respondents 1-5 that the corresponding stage in the revised pay scale for the pre-revised pay of Rs.73/- was Rs.202/- was admitted by the applicant in the reply statement.

3. I have carefully gone through the pleadings and also the documents produced. As regards the claim of the respondents 1-5 for the difference in pay and allowances from 22.8.1972 to 31.12.1972, there is no serious dispute. From the service record of the first respondent produced before the Labour Court and marked as Exbt.R1, it is seen that the salary @ Rs.70/- was paid for the period from 22.8.1972 to 31.12.1972. This establishes the case of respondents 1-5 that for the period between 22.8.1972 to 31.12.1972 though each of them was entitled to pay @ Rs.73/- in fact they were paid @ Rs.70/- per month. So for this period a sum of Rs.13/-

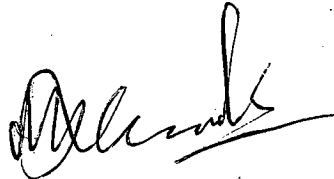
and the corresponding DA and ADA was actually due to each of them. But regarding the claim for the rest of the period concerned in the case of the 5 applicants before the Labour Court, I find that the Labour Court has committed a very serious error in observing at paragraph 5 of the impugned order at Annexure-1 as follows:

".....Admittedly the corresponding slab in the revised scale of pay of Rs.196-232 for Rs.73/- is Rs.202/-."

A reading of the written statement filed by the applicants before us in CP(C) 98/88 in the Central Government Labour Court, would clearly establish that there was no such admission made by them. It has been specifically contended in paragraph 8 of the statement(Annexure-2) that the corresponding slab for the pre-revised pay of Rs.73/- in the revised scale of Rs.196-232 was only Rs.196/-. Annexure-5, the fixation chart for major Class-IV scale produced along with this application also shows that for Rs.70/- to Rs.74/- in the pre-revised scale, the stage in the revised pay scale of Rs.196-232 is only Rs.196/-. Therefore the 6th respondent has gone wrong in holding that the applicants before it who are the respondents 1-5 in this application who were getting pay @ Rs.73/- in the pre-revised scale were entitled to get pay @ Rs.202/- in the revised scale. The impugned order therefore suffers from this infirmity. Instead of various amounts directed to be paid to the respondents 1-5 in the paragraph 6 of the impugned order at Annexure-1, the

respondents 1-5 would be entitled only to get Rs.13/- as the difference in pay for the period between 22.8.1972 to 31.12.1972 and the DA and ADA corresponding to that. From 1.1.1973 onwards since their pay has been correctly fixed, nothing as claimed by them was due to them.

4. In view of what is discussed above, the order of the Central Government Labour Court in CP(C) Nos.98, 99, 100, 101 and 125 of 1988 is modified to the extent of directing the applicant to pay each of the respondents 1-5 Rs.13/- and the corresponding DA and ADA and nothing more. In the facts and circumstances of the case, I direct the parties to suffer their costs.



(AV HARIDASAN)
JUDICIAL MEMBER
25-9-1991

trs