

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.285/99

Thursday this the 2nd day of August, 2001

CORAM

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

R.P.Sivakumar,
Sub Divisional Engineer (O)
Office of the Divisional Engineer,
D-Tax, Telephone Exchange,
Palakkad, Kerala.

...Applicant

(By Advocate Mr. Sasidharan Chempazhanthiyil)
V.

1. Chief General Manager,
Telecom, Trivandrum.
2. Chief General Manager,
Telephone Nigam Limited,
Delhi.
3. Union of India, rep. by its
Secretary,
Ministry of Communications,
New Delhi.
4. Bharat Sanchar Nigam Limited
represented by its Chairman,
New Delhi.

..Respondents

(By Advocate Mr.P.Vijayakumar)

The application having been heard on 2.8.2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant recruited as Junior Telecom Officer in the year 1982 and was appointed with effect from 16.5.1984 after training in Delhi circle was transferred under Rule 38 of the P&T Manual, Vol.IV to Kerala Circle in the year 1988. However, his pay was fixed as on 1.1.86 at Rs.1640/- in the scale Rs.1640-2900. Coming to know that his junior in Delhi Circle one Mr.Prejapathi has got his pay fixed at Rs.1700/- with effect from 1.1.86 and that the anomaly

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had arisen on the result of the pay fixation on the implementation of the IVth Central Pay Commission Report, the applicant submitted a representation on 18.11.96 for having his pay stepped up on par with his junior Prajapathi. The claim of the applicant was rejected by the impugned order Annexure.A8 issued by the 1st respondent on the ground that the applicant having got transferred to Kerala Circle he is not entitled to have his pay stepped up with his erstwhile junior in the Delhi Circle. Aggrieved the applicant has filed this application for setting aside the impugned order with all consequential benefits.

2. In the reply statement, the respondents seek to justify the impugned order on the ground that the applicant lost his seniority on his transfer under Rule 38 of the P&T Manual Vol.IV.

3. On a careful consideration of the facts and circumstances emerging from the pleadings and the materials placed on record, we are of the considered view that the decision of the respondents not to step up the pay of the applicant and to grant him consequential benefits for the reason that he has suffered loss of seniority on account of transfer under Rule 38 is unsustainable. The applicant as also his junior Prajapathi were in the Delhi Circle as on 1.1.86. It is only in 1988 that the applicant was transferred under Rule 38 of the P&T Manual Vol.IV. That the applicant was senior to Prajapathi and was getting equal or more in comparison with Prajapathi prior to 1.1.86 are facts beyond dispute. Therefore, the anomaly was a direct result of fixation of pay as per

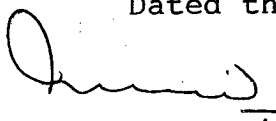
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revised Pay Rules. As both the applicant and Prajapathy were in Delhi on 1.1.86 and even till 1988 the transfer of the applicant under Rule 38 to Kerala Circle would not disentitle the applicant from claiming stepping up of pay on par with his admitted junior Prajapathi. The applicant is therefore entitled to succeed.

4. In the result, the application is allowed. The impugned order is set aside and the respondents are directed to fix the pay of the applicant stepping up his pay on par with his junior Shri Prajapathi with all consequential benefits. The above direction shall be complied with and monetary benefits flowing therefrom shall be made available to the applicant within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 2nd day of August, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

(s)

List of annexures referred to:

Annexure.A8: True copy of the letter No.AP/96-627/PKD dated 3.8.1998 issued by the first respondent.

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