

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.404/2003.

Thursday this the 10th day of July 2003.

**CORAM:**

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

(By Advocate Shri Thomas Mathew)

vs.

1. Senior Accounts Officer  
(Administration) Office of the  
Director of Accounts (Postal)  
Kerala Circle, Trivandrum.
2. Director of Accounts (Postal)  
Kerala Circle, Trivandrum.
3. Chief Post Master 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 Shri C.C.Abraham, ACGSC)

The application having been heard on 10th July, 2003, the Tribunal on the same day delivered the following:

ORDER

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

The applicant is a Group 'D' official in the Office of the Director of Accounts (Postal), Trivandrum. Her grievance in this O.A. is, that her scale of pay including increments earned by her as temporary status attained Casual Labourer discharging the duties of Group 'D' is, denied to her on being regularised as Group 'D' w.e.f. 24.6.1999. According to the applicant, she was conferred with temporary status with effect from 5.3.1997. Being so, she was given her annual increment at the rate applicable to Group 'D' employees from the date of attaining temporary status

in Group 'D' pay scale. When she was regularised in Group 'D' post w.e.f.24.6.99 as per order dated 25.6.99 issued by the Ist respondent, she was drawing a basic pay of Rs.2660/- in temporary status Group 'D'. However on such regularisation, the applicant states, her pay was fixed at the minimum of the scale of Group 'D' i.e. at Rs.2550/-, as against Rs.2660/- being the basic pay drawn by her as on 24.6.99. Relying on this Tribunal's decision in O.A.1373/99 dated 1.1.2001(A3), which has since been confirmed by the Hon'ble High Court in O.P.No.13244/01, the applicant seeks the following reliefs:

- A) to call for the records leading to Annexure A-1 and quash the same to the extent it fixes applicant's pay at Rs.2550/- on regularisation taking away the increments of pay already drawn and paid.
- B) Quash Annexure A-6.
- C) Declare that the fixation of applicant's pay at 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 re-fix applicant's pay reckoning the last pay drawn as Temp-Status Casual Labourer with effect from the date of regularisation with all consequential benefits including arrears.
- D) Grant such other reliefs which this Honourable Tribunal may deem fit and proper in the facts and circumstances of the case.
- E) Award cost of the Original Application.

2. Though the respondents were given sufficient opportunities to file the reply statement, the same has not been filed by them so far. Today when the matter came up before the Bench for disposal, Shri C.C.Abraham, learned ACGSC sought further time to file the reply statement. Since we are satisfied that the matter is already covered by this Tribunal's decision in O.A.1373/99, which has become final in view of the Hon'ble High Court's order

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dated 4.1.2002 in O.P.13244/01, and since the facts in this, we do not consider it necessary to keep the matter pending any longer. Accordingly, we proceed to dispose of the case after hearing the learned counsel on both sides.

3. Shri Thomas Mathew, learned counsel for the applicant has invited our attention to the judgement of the Hon'ble High Court in O.P.13244/01 and has pointed out that the Hon'ble High Court after considering the rival contentions, upheld this Tribunal's findings and held that the stand taken by the respondent -department that the increments earned by the employees as temporary status mazdoors cannot be reckoned while fixing their pay on regularisation, is plainly perverse. That being the legal position, which has become final, the applicant's right to reckon his pay on regularisation as Group 'D' employee on the basis of the last pay drawn by him as temporary-status Group 'D', cannot be taken away and the impugned order A1 and A-6 are required to be quashed, learned counsel would urge.

4. Shri C.C.Abraham, learned ACGSC would however defend the action of the respondents. He would also point out that although by Annexure A-6 communication the first respondent informed the applicant that the benefit could not be extended to the applicant, the matter having been taken up with the DOP&T, it could not be said that the case was finally decided against the applicant. On that count, the learned counsel would state that this O.A. is to be treated as premature since the authorities should be given freedom to reconsider the matter.

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5. On going through the relevant records and having regard to the fact that an identical issue had been considered in detail in this Tribunal's order in O.A.1373/99 dated 1.1.2001, which has since been confirmed by the Hon'ble High Court of Kerala and a clear finding to the effect that non-reckoning of increments earned by temporary status attained group 'D' officials while fixing their pay on regularisation as Group 'D', is patently perverse, we do not consider that there is any scope for a different finding in this case. In the circumstances, we hold that the impugned A-1 and A-6 orders are liable to be set aside in so far as it relates to the applicant. We do so accordingly. Allowing the application, we direct the respondents to grant the applicant all consequential benefits including monetary benefits flowing out of the findings, within two months from the date of receipt of a copy of this order. No order as to costs.

Dated the 10th July 2003.

  
K.V. SACHIDANANDAN  
JUDICIAL MEMBER

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

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