

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 408 of 2010

WEDNESDAY, this the 16th day of June, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

T. Manoharan, aged 52 years, S/o. P. Thankappan,
 LDC Pension section, Office of the Director of Accounts (Postal),
 Kerala Circle, Thiruvananthapuram-695001, residing at "Keezhekattu
 Veedu", Kannanmoola, Medical College P.O.,
 Thiruvananthapuram-11. **Applicant**

(By Advocate – Mr. Shafik M.A.)

V e r s u s

1. Union of India, Rep. by the Director General,
 Department of Posts, Postal Accounts Wing,
 Sansad Marg, New Delhi-1.
2. The Director of Accounts (Postal), Kerala Circle,
 Thiruvananthapuram-1.
3. The Assistant Director General (P.A.Admn),
 Departments of Posts, Ministry of Communication,
 New Delhi. **Respondents**

(By Advocate – Mr. Varghese John for Mr. Thomas Mathew
 Nellimootil)

This application having been heard on 9.6.2010, the Tribunal on
16-06-10 delivered the following:

O R D E R

By Hon'ble Mr. K. George Joseph, Administrative Member -

The applicant in this O.A. prays for a direction to the respondent to grant him the incentive increment, with effect from 16.07.1999, in the form of a personal pay for promoting the small family norms.



2. The wife of the applicant had undergone sterilization operation on 25.04.1989 when he was working as Mazdoor in the Postal Department. He was granted temporary status with effect from 29.11.1989. He was appointed as Group-D on regular basis with effect from 16.07.1999 in the office of the Director of Accounts (Postal), Kerala Circle, Thiruvananthapuram. He was promoted to the cadre of Lower Division Clerk on 15.07.2008. He represented to the Director, office of the Director of Accounts (postal), Thiruvananthapuram, on 06.11.2008 for grant of personal pay under small family norms, which was rejected by the impugned order dated 24.07.2009 and 12.11.2009. Hence this O.A.

3. The applicant submits that the date of undergoing sterilization operation is immaterial for the purpose of granting the incentive for promoting the small family norms, if the conditions laid down in Annexures A-4 and A-5 are satisfied. The applicant was not a regular employee when the incentive increment for promoting the small family norms was introduced on 04.12.1979. He was a regular employee with effect from 16.07.1999. In terms of Annexure A-5 even employees having temporary status are eligible to receive the incentive increment from the day they were made regular employees subject to the condition in Annexure A-4. The object of Annexure A-4 is to promote small family norms among Central Government employees by providing incentive to them. The denial of the same to the applicant on technical ground is not justified.

4. On behalf of the respondents, it was submitted that the applicant has submitted his representation for grant of incentive after a lapse of 9 years from the date of his regular appointment in the department. Therefore, his

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representation dated 06.11.2008 was forwarded to the Director General (Posts), New Delhi. The DG (Posts) vide his letter dated 27.07.2009 communicated that as per F.R. 27(11)(u) the benefit of special increment on adoption of small family norms, is admissible to regular employees only. As to the letter dated 08.05.1995, it was submitted that "it was also clarified in the said letter that the official working in the temporary capacity is not entitled to get the benefit of special increment. Therefore, the O.A. is liable to be dismissed on the ground that at the time when the applicant's wife underwent the sterilization operation, the applicant was not conferred with temporary status casual labourer.

5. Arguments were heard and documents perused.

6. The Office Memorandum No. 7(39)-E.III/79 dated the 4th December, 1979, from the Ministry of Finance (Department of Expenditure) on introduction of incentives among Central Government employees for promoting the small family norms, is reproduced as under :

"The undersigned is directed to say that the question of providing incentive to promote the small family norms among the Central Government servants has been under the consideration of the Government for some time past. The President is pleased to decide that the Central Government employees who undergo sterilization after having two or three surviving children may be granted a special increment in the form of personal pay not to be absorbed in future increases in pay either in the same post or on promotion to higher posts. The rate of personal pay would be equal to the amount of next increment..... The grant of the concessions will be subject to the following conditions:

- i. The employee must be within the reproduction age, in the case of a male Central Government Employees, he should not be over 50 years and his wife should be between 20 to 45 years of age. In the case of a female employee she must not be above 45 years of age and



her husband should not be over 50 years of age.

- ii. The employee should have two or three living children.
- iii. The sterilization operation must be conducted and sterilization certificate must be issued by a Central Government hospital or under the auspices of the Central Government Scheme. Where this is not possible the sterilization certificate issued by a State Government hospital or an institution recognized by the Central Government for the purpose will suffice.
- iv. The sterilization operation can be undergone either by the Central Government employee or his/her spouse provided the conditions at sl. No. (i) to (iii) above are fulfilled.
- v. The concession will be admissible only to the employees who undergo sterilization operation on or after the date of issue of these orders.

2. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India."

7. All the Central Government employees who satisfy the conditions listed above are eligible to get the incentive increment. The sterilization operation was conducted on the wife of the applicant after the issue of the above order. He was not a regular employee nor an employee with temporary status at that point of time but later he became an employee with temporary status and thereafter a regular employee. Vide letter No. 14-11/95 dated 08.05.1995 of the D.G., Department of Posts, New Delhi, the employees of temporary status were also made eligible for incentive increment with effect from the date when they were made regular employees subject to other conditions being fulfilled. The said letter is reproduced as under :

"Sub: Special increment under family welfare scheme -
Clarification reg.

Reference to your office No. WLF/3/20/94 dated



6/7.03.95 on the subject noted above and to say that the benefit of special increment (in form of personal pay) may be given to the employees of temporary status with effect from the date when they were made regular employees subject to the conditions noted in Ministry of Finance (Department of Expenditure) O.M. No. 7(39)-E.III/79 dated the 4th December, 1979.

The officials working in the temporary capacity are not entitled to get the benefit of special increment."

8. The applicant fulfills all the conditions for grant of incentive increment as per memorandum dated 04.12.1979 except that he was not a regular Central Government employee when his wife underwent sterilization operation on 25.04.1989 i.e. before the applicant was appointed on temporary status on 29.11.1989. Vide letter dated 08.05.1995, the benefit of special increment for promoting small family norms is made available to the employees of temporary status with effect from the date when they were made regular employees. It is further stated that officials working in temporary capacity are not entitled to get the benefit of special increment. It means that so long as an official is in temporary capacity he will not get the special increment but he will get it when he is made regular. The crucial factor is being a regular employee. Any regular employee, irrespective of whether he was once a temporary employee or not, who satisfies the condition in paragraph 6 above is eligible to get the incentive. If he happened to be a temporary employee, he would get it only from the date when he was made a regular employee. The condition regarding the date of sterilization operation is that it should have been undergone on 4.12.1979 or after. It does not say that the sterilization operation should have been undergone when the employee was regular or temporary. If that is so, it does not matter even if the operation was done when the employee was a casual worker who in due

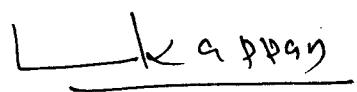


course became a regular employee passing through the temporary status. In fact, that the applicant even as a casual worker had adopted small family norms, is an act that should be appreciated. Had he not done so, and had one more child, the expenses to be incurred on account of that, in the form of LTC and medical expenses, would have been much more than ~~the~~ expenses Government would have to bear by way of giving the incentive increment. The purpose of this incentive is to promote small family norms especially among Government employees. That purpose having been achieved as far as the applicant is concerned, Government should not be mean or miserly relying on technical points but should be generous enough to grant the incentive to the applicant with effect from the date when he was made a regular employee.

9. Accordingly, the OA is allowed. The respondents are directed to grant the applicant incentive increment with effect from 16.7.1999 for adopting small family norms.

10. No order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

"SA"