

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI.

REGISTRATION NO. OA 1126 of 1996

DATE OF ORDER : 22.06.2000

Prabhakar Bhikoo Sakhare, working as Sub-Divisional Engineer, Main Distribution, Frame/Test Room, Fountain Telecom Bldg. No. 2, Mahanagar Telephone Nigam Ltd., Mumbai and residing at 1/20-21 Khimji Nagji Buldg. Opp. Phoenix Mills, Senapati, Bapt Marg, Lower Parel (W) Mumbai - 400013

.....APPLICANT.

By Advocate Shri G.K. Masand.

Versus

1. Union of India through the Secretary in the Ministry of Communication, Department of Telecom, Sanchar Bhavan, Parliament Street, New Delhi-1.
2. Chairman, Telecom Communication, Department of Telecom, Sanchar Bhavan, New Delhi - 1.
3. Chief General Manager, Mahanagar Telephones Nigam Ltd., Telephone House (West Wing) Veer Savarkar Marg, Pradhadevi Mumbai - 400 028.
4. Accounts Officer (Cash), Head Quarters, Mahanagar Telephone Nigam Ltd., 4th Floor, Indian Globe Chamber, Near VT Station, Mumbai -1.

.....RESPONDENTS.

By Advocate Shri S.S. Karkera.

C O R A M

Hon'ble Mr. L. Hmingliana, Member (A)

Hon'ble Mr. Rafiquddin, Member (J)

O R D E R


L.Hmingliana, Member (A):-

The applicant was a Sub-divisional Engineer of the Maharashtra Telephone Nigam Ltd. at the time he filed the OA in October, 1996, and he has now retired from service.

His prayer is for quashing the fixation of his pay vide order dated 27.4.1996, which resulted in reduction of his pay, and for restoration of the pay he was drawing before the impugned order was made.

2. The applicant joined service as time scale clerk in 1962. He earned a series of promotions as Upper Division Clerk in 1971, as Engineering Supervisor/Junior Telecom Officer in 1974, as selection grade Junior Engineer in November, 1981, and then finally as Sub-divisional Engineer ^{Assistant Engineer} from 17.5.1982. His pay as SDE on his promotion was fixed at Rs. 650/- , which was the minimum of the pay scale of Rs. 650-30-740-35-810-EB-35-40-1000-EB-40-1200/-. His pay as on 1.5.1985 was Rs. 740/- , and his next increment was due on 1.5.1986. Then on the revision of the pay scale of government servants with effect from 1.1.1986, his pay scale was revised to Rs. 2000-60-2300-EB-75-3200-100-3500/-. His pay in the new scale was fixed at Rs. 2300/- as on 1.5.1986, and he was allowed to cross ^{the} efficiency bar with effect from 1.5.1987, and he was drawing Rs. 2525/- on 1.1.1990.

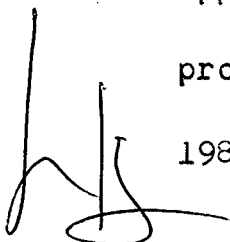
3. He graduated from the Institute of Electronic and Telecom Engineers in 1979. Then, the Government issued memo dated 11.7.1990 allowing two advance increments to Engineering Graduates with effect from 1.5.1990.



4. His pay was fixed at Rs. 2750/- on 1.5.1990, with the grant of two $\frac{1}{2}$ advance increments because of his graduation in ~~the~~ Engineering, and the release of his increment in the normal course, ^{and} his pay on 1.5.1995 was Rs. 3125/-, which was reduced to Rs. 3050/- vide the impugned order.

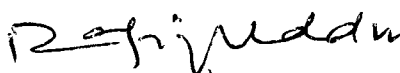
5. The respondents in their reply have given the reasons for reduction of his pay as follows: The applicant was officiating as SDE/AE on 1.1.1986 and continuously thereafter till his regularisation on 16.11.1990. And till his regularisation, he was substantive as SGJE, which should be the basis for the grant of increment to him ^{for fixation of his pay in the revised scale,} but he was given increments regularly in his officiating post, and his pay was wrongly refixed in the revised scale on the basis of his officiating pay and the increments granted to him, and the incorrect fixation of his pay was rectified by the impugned memo dated 27.4.1996 on receipt of clarification from the Department of the Telecom vide letter dated 5.12.1990.

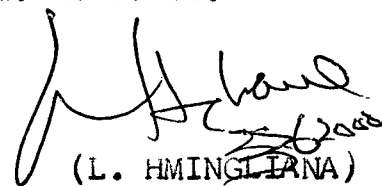
6. It is not easy to follow the written reply filed on behalf of the respondents. However, we are satisfied that the refixation of the pay of the applicant was entirely in accordance with the provisions of Rule 7 of the CCS (Revised Pay Rules) 1986. The applicant was getting more than what he was



entitled to on fixation of his pay when the new pay scale were brought into effect from 1.1.1986. It is also stated in the reply that several representations were received from the seniors of the applicant for re-fixation of their pay on the basis of the wrong pay fixation of the applicant, And the grant of relief would have a serious implication through-out the India, costing ^{the} ex-chequer dearly. Then there is no case for grant of relief to the applicant. As regards his prayer for direction to the respondents not to give effect to the impugned pay fixation memo, needless to say, ~~that~~ that relief cannot be granted. As regards his prayer for direction restraining the respondents from making recovery pursuant to the impugned fixation memo, the application is premature.

7. The application is dismissed. No costs.


(RAFIQUDDIN)
MEMBER (J)


(L. HMINGLIANA)
MEMBER (A)

/CBS/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

REGISTRATION NO. RA 35 of 2000

(Arising out of OA 1126 of 1996)

DATE OF ORDER : 31.08.2000
01 09

This review application filed by the original applicant in OA 1126/96 for review of the order dated 23.6.2000 passed by the Division Bench consisting of myself and Mr. Rafiquddin, Member (J) has to be dismissed by circulation for the following reasons;

1. The OA was for quashing the order of refixation of the pay of the applicant dated 27.4.1996, which resulted in reduction of his pay, and for restoration of the pay he was drawing before the impugned order was made. By the impugned order, his pay as on 1.5.1995, which had been fixed at Rs. 3125/-, was reduced to Rs. 3050/-. On the material date of 1.5.1995 he was *officiating* ~~as~~ Sub-divisional Engineer/Assistant Engineer, and his pay was fixed at Rs. 3125/-, giving him the benefit of the increment; he was allowed to draw as officiating SDE/AE, when the revised pay scale on the recommendation of the 4th Pay Commission came into force on 1.1.1986, and not the pay he would have been drawing in his substantive post of SGJA, which should have been the basis for fixation of his pay in the revised scale. The impugned order was made by the respondents to correct the wrong fixation of his pay. We ~~find~~ ^{found} on examination of the provisions of Rule 7 of the CCS (Revised Pay Rules), 1986 that the refixation of his pay was done correctly, and he had ~~no case for~~ ^{the} relief he was praying for in his OA. It is not his case that there was an error in our order dismissing his OA. Thus, there is no case for review
2. The review application is dismissed without issue of notice to the respondents.

Rafiquddin
(RAFIQUDDIN)
MEMBER (J)

L. Hmingliana
(L. HMINGLIANA)
MEMBER (A)

/CBS/