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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.677 of 1996

DATE OF JUDGEMENT: 9th October, 1996

BETWEEN:

P.KRISHNA KUMAR

.. Applicant

and

1. The Chief of Naval Staff,
Naval Headquarters, New Delhi,

2. The Flag Officer, Commanding-in-Chief,
Eastern Naval Command, Visakhapatnam,

3. The Commander, Officer-in-Charge,
Communication Centre, Naval Base,
Visakhapatnam.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI P.B.VIJAYA KUMAR

COUNSEL FOR THE RESPONDENTS: SHRI V.VINOD KUMAR, Addl. CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

JUDGEMENT

(ORAL ORDER PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

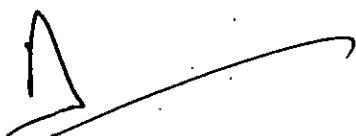
Heard Shri P.B.Vijaya Kumar, learned counsel for the applicant and Shri V.Vinod Kumar, learned standing counsel for the respondents.

2. The applicant in this OA joined as a Telephone Operator Grade-II on adhoc basis in the scale of pay of Rs.260-6-290-EB-326-8-366-EB-8-390-10-400 with effect from

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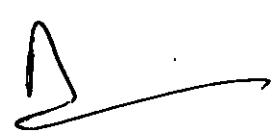
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6.8.77. Subsequently he was regularised with effect from January 1979. It is stated that the scale of pay of Rs.260-8-480 was given to those Telephone Operators who were in service as on 1.1.73. As the applicant was not in service on 1.1.73, he is not entitled for the revised pay scale of Rs.260-8-480 i.e, he is entitled for increment of only Rs.6/- and not Rs.8/- as per the revised scale. The respondents submit that by mistake the applicant's pay was fixed in the scale of pay of Rs.260-8-480 instead of fixing in the scale of pay of Rs.260-6-290-EB-326-8-366-EB-8-390-10-400. Because of this wrong fixation, he was allowed to get higher increment than what he is eligible to draw. Because of that mistake, an amount of Rs.8,000/- has to be recovered from his pay as excess payment made due to ~~payment of~~ ^L excess increment of Rs.8/- instead of Rs.6/-. The applicant filed OA 1024/93 on the file of this Bench which was decided on 7.7.95. A direction was given in that OA to effect the recovery of Rs.8,000/- only after a decision by the competent authority is taken in this connection on the basis of the judgement given by the Ernakulam Bench of the Tribunal in OA 814/93. The respondents have disposed of his representation by order No.CE/9303/156/IMPL dated 31.1.96 (Annexure A-I) which was conveyed to him by the letter No.COMCEN/275/1 dated 6.2.96 (Annexure A-II). By the impugned order, the authorities have decided that an amount of Rs.8,000/- has to be recovered from the pay of the applicant in view of the excess payment of the increments. The above said two impugned orders dated 31.1.96 and 6.2.96 are challenged in this OA.



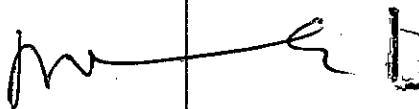
3. It is an established fact that the applicant is not entitled to get an increment of Rs.8/- in the scale of pay of Rs.260-8-480 as he joined later than 1.1.73. Hence it is in order if the excess payment paid to him is recovered. But the learned counsel for the applicant submitted that he is a low salaried employee and hence the recovery of Rs.8,000/- will cause hardship to him. Hence the excess amount may be waived. It is not for the Court/Tribunal to give any direction in regard to the waiver. ~~But~~ The Government dues cannot be waived without any proper justification. It is for the Department to decide whether it should be waived or not. No direction can be given in this connection.

4. The learned counsel for the applicant submits that his date of regularisation is likely to be advanced from January 1979 to 6.8.77 in view of the recent circular of the respondents on the basis of the various judgements of this Tribunal. It is also stated that recommendation in this connection for advancing the date of regularisation in the case of the applicant has been forwarded to the Naval Headquarters. Hence he submits that the recovery may wait till such time the issue regarding advancement of the date of regularisation is decided in which case he will be entitled for some incremental arrears. The recovery of Rs.8,000/- can be adjusted against the arrears and thereby he will not be put to hardship by making recovery from his salary to make good the excess payment of Rs.8,000/- made to him earlier. This appears to be a reasonable request.



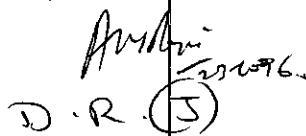
However, if no such proposal is pending in regard to the advancement of the date of regularisation from 1979 to 1977 or if the proposal is to be initiated at a later date, the respondents need not wait for recovery. In that case, they can recover the excess amount of Rs.8,000/-.

5. The OA is ordered accordingly as above. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 9th October, 1996
Open court dictation.

vsn


D.R. (3)

..5..

D.A.NO.677/96

COPY TO:

1. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.
2. The Flag Officer, Commanding in Chief,
Eastern Naval Command,
Visakhapatnam.
3. The Commander, Officer in Charge,
Communication Centre, Naval Base,
Visakhapatnam.
4. One copy to Mr.P.B.Vijaya Kumar, Advocate,
CAT, Hyderabad.
5. One copy to Mr.V.Vinod Kumar, Addl.CGSC,
CAT, Hyderabad.
6. One copy to Library,CAT, Hyderabad.
7. One duplicate copy.

YLKR

03/11/96
08/11/96

Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDÉRABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 9.10.96

ORDER/JUDGEMENT
R.A/C.P./M.A.NO.

in
O.A.NO. 677/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YILKR

II COURT

