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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH AT
HYDERABAD

OA. No. 492/99

Date of Order: 19.8.99

Between:
G.V.Ramanamma

...Applicant

and

1. The Union of India rep. by
The Chairman, Telecom Commission,
Sanchar Bhavan, New Delhi-110 001.
2. The Chief General Manager,
Telecom, APCircle, Hyderabad-530 020.
3. The General Manager,
Telecom District,
Visakhapatnam-530 020. ... Respondents

Counsel for the Applicant

Mr. T.V.V.S.Murthy

Counsel for the Respondents

Mr. V.Rajeshwar Rao, Addl.CGSC

CORAM:-

THE HON'BLE SHRI JUSTICE D.H.NASIR : VICE CHAIRMAN

ORDER

Heard the learned counsel Mr.T.V.V.S.Murthy, for the Applicant and the learned standing counsel Mr.V.Rajeshwar Rao, for the Respondents.

2. The grievance of the applicant in this OA is to the fact that her family pension was reduced w.e.f. 12-9-97 without any notice and without giving any reason for so reducing the family pension. The applicant is, therefore, seeking restoration of the family pension at the rate of Rs.5,512/- p.m. w.e.f. 12-9-97. The applicant also seeks a relief that the reduction of the family pension from 12-9-97 based on the later decision of the Supreme Court in another case is illegal and without jurisdiction.

3. The Bench of this Tribunal comprising the learned Administrative Member Sri Rangarajan in OA.1143/98 and myself was confronted with the same situation as in this case. In para 5 of the earlier OA.1143/98, it is observed that by impugned order dt.27.8.98

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it was sought to recover an excess amount of Rs.14,900/- from the applicant by setting aside the stepping up of pay earlier granted to the applicant in view of the direction given by this Bench in OA.1253/93. In para-6 it is observed that the Telecom Board by letter No.50-66/94-PAT dated 7.11.1997 issued instructions to recover the amount already paid to the applicant.

4. Aggrieved by the above, OA.1143/98 was filed before this Tribunal challenging the recovery sought to be made from the applicant on the ground that excess payment was made as stated earlier and consequently a direction was also prayed for in the OA.1143/98 to continue to pay him as was fixed earlier on the basis of the directions given by this Tribunal in OA.1253/93.

5. In para 8 of the said order the submissions made by the learned standing counsel for Respondents were taken into account that the re-fixation of the pay of the applicant was done earlier in pursuance of the direction in OA.1253/93 and in view of the recent judgement of the Supreme Court in 1997 SCC (L&S) 1852 (UOI & Another Vs R.Swaminathan). The standing counsel for the Respondents submitted that the law laid down by the Supreme Court was that the adhoc promotions given to the juniors to meet the local exigencies will not give any benefit to the seniors who were promoted later on.

6. In para 9 of the decision it is observed that, number of directions have been given recently by the Apex Court in connection with the stepping up of pay. After the delivery of the judgement in Swaminathan's case, the Apex Court also held that the stepping up of pay was to be granted only following FR-22-1 (a)(I) and also the fact that the promoted cadre was in a higher scale. This direction given by the Hon'ble Supreme Court was much later than the judgement in OA.1253/93. But the SLP in OA.1253/93 filed by the respondents had been dismissed. Hence it is to be seen whether following the later law laid down by the Supreme Court the benefits which accrued to the applicant earlier than the law laid down later can deprive the applicants the benefits of the earlier judgement. Similar OA was filed before the Ernakulam Bench of this Tribunal. In that case the Ernakulam Bench observed as follows:

" It is well settled that a principle laid down in a later decision of the Hon'ble Supreme Court though it is the law of the land will not affect the rights accrued to the litigants as the case, has become final by not being subjected to appeal or atleast have been dismissed by the Supreme Court."

7. The above decision of the Ernakulam Bench was followed in the case before this Bench in OA.1143/98 also. The applicant derived the benefit much earlier than the law laid

down in Swamynathan's case. Hence the same cannot be quoted to deprive the applicant the benefit which had already accrued. The cases decided earlier than the judgement in Swamynathan's case had to be honoured and implemented. Hence it was held that the applicant was entitled for the relief asked for and the impugned recovery order dt. 27.8.98 was set aside.

8. The question of law and facts before us in the instant case being similar in nature, there is no reason why the present OA also should not be disposed of with the same observations and the directions.

9. This OA is therefore disposed of with an order that the impugned recovery order dt.29.6.98 (Annexure-7) of the OA deserves to be quashed and set aside and the same is hereby quashed and set aside to the extent it reduces the quantum of the pension being paid to the applicant.

10. The OA is disposed of accordingly. No costs.

Dani
(Justice D.H.Nasir)
Vice Chairman

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Dated: 19th August, 1999
(Order dictated in the open Court)