

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 08.10.2001

OA No.245/1998

Goverdhan Lal Verma s/o Shri Kanhya Lal r/o 12, Gandhi Colony, Gatore Road, Brahmputri, Jaipur

..Applicant

Versus

1. Union of India through the Chief General Manager, Telecom, Rajasthan Telecom Circle, Dak Tar Bhawan, Sardar Patel Marg, Jaipur
2. The General Manager, Telecom, District Jaipur, M.I.Road, Jaipur

.. Respondents

Mr. V.B.Srivastava, counsel for the applicant

Mr. P.C.Sharma, proxy counsel to Mr.Sanjay Pareek, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Goverdhan Lal Verma has prayed for quashing the impugned order dated 22.6.1997 (Ann.A1) and for a direction to the respondents to provide to the applicant the benefit of CCS (Revised Pay) Rules, 1986 w.e.f. 1.6.1987 and to fix the pay of the applicant as Rs. 1900/- as on 1.6.1987 and also to pay to the applicant arrears of pay fixation accordingly.

2. The applicant's case is that he was initially

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appointed as Time Scale Clerk in the Posts and Telegraphs Department vide order dated 27.3.1962. He was promoted as Supervisory-Cum-Operative Clerk w.e.f. 30.10.1976. He was due to cross the Efficiency Bar (EB, for short) on 1.6.1984, but this was not given effect to because the applicant was imposed the penalty of withholding of two increments for the year 1985 and 1986 without cumulative effect vide respondents order dated 24.1.1985. The applicant was allowed to cross the EB only from 16.9.1991. On expiry of the penalty, the applicant's pay was fixed at Rs. 1640/- w.e.f. 1.1.1986. It is pointed out by the applicant that one Shri Hira Lal, who was appointed as Time Scale Clerk on 16.4.1962, was fixed at Rs. 1900/- on 1.6.1987 in terms of the Fourth Pay Commission recommendations. It is alleged that though Shri Hira Lal was junior to the applicant, his pay was fixed at higher stage than that of the applicant. Representations submitted by the applicant in this regard had no response. It is further pointed out by the applicant that the respondent department gave options to employees who had not come over to the revised scale as recommended by the Fourth Pay Commission vide their letter dated 27.5.1988 (Ann.A14) to switch over to the revised pay scale as recommended by the Fourth Pay Commission. The employees desirous of switch over to the revised pay scale were required to submit options by 31.8.1988. The applicant has however, submitted his option to switch over to the revised pay scale in October, 1988. It is contended by the applicant that the Government circular dated 27.5.1988 was never circulated to him and he came to know of it in October, 1988 and immediately thereafter he submitted the option. In the

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appointed as Time Scale Clerk in the Posts and Telegraphs Department vide order dated 27.3.1962. He was promoted as Supervisory-Cum-Operative Clerk w.e.f. 30.10.1976. He was due to cross the Efficiency Bar (EB, for short) on 1.6.1984, but this was not given effect to because the applicant was imposed the penalty of withholding of two increments for the year 1985 and 1986 without cumulative effect vide respondents order dated 24.1.1985. The applicant was allowed to cross the EB only from 16.9.1991. On expiry of the penalty, the applicant's pay was fixed at Rs. 1640/- w.e.f. 1.1.1986. It is pointed out by the applicant that one Shri Hira Lal, who was appointed as Time Scale Clerk on 16.4.1962, was fixed at Rs. 1900/- on 1.6.1987 in terms of the Fourth Pay Commission recommendations. It is alleged that though Shri Hira Lal was junior to the applicant, his pay was fixed at higher stage than that of the applicant. Representations submitted by the applicant in this regard had no response. It is further pointed out by the applicant that the respondent department gave options to employees who had not come over to the revised scale as recommended by the Fourth Pay Commission vide their letter dated 27.5.1988 (Ann.A14) to switch over to the revised pay scale as recommended by the Fourth Pay Commission. The employees desirous of switch over to the revised pay scale were required to submit options by 31.8.1988. The applicant has however, submitted his option to switch over to the revised pay scale in October, 1988. It is contended by the applicant that the Government circular dated 27.5.1988 was never circulated to him and he came to know of it in October, 1988 and immediately thereafter he submitted the option. In the

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circumstances, he has prayed that his pay should be fixed under Rule 7 of the CCS (Revised Pay) Rules, 1986.

3. In the counter, it has been stated by the respondents that the applicant did not submit his option as called for vide circular dated 27.5.1988 by the stipulated date i.e. by 31.8.1988, instead, the applicant submitted option in October, 1988 and, therefore, his pay could not be fixed under Rule 7 of the CCS (Revised Pay) Rules, 1986. In regard to the case of Shri Hira Lal, it is pointed out by the respondents that Shri Hira Lal opted the revised pay scale w.e.f. 1.6.1987 and he was given pay fixation accordingly in the revised pay scale w.e.f. 1.6.1987. This has ~~again~~ given rise to an anomaly in the pay fixation of the applicant vis-a-vis Shri Hira Lal and this anomaly has arisen because of non submission of option by the applicant. It has, therefore, been submitted by the respondents that this application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused records of the case carefully.

5. The applicant had initially given the option immediately after implementation of the recommendations of the Fourth Pay Commission for fixation of his pay w.e.f. 1.1.1986, but at that time the applicant was suffering penalty of withholding of increments as also non-clearance of EB. After he has suffered these penalties, he sought refixation of his pay in terms of Government of India circular dated 27.5.1988 for which he submitted an option

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in October, 1988. In this connection, we consider it appropriate to reproduce below the relevant portion of the circular dated 27.5.1988:-

"2. The staff side in the National Council (JCM) have again represented that the time limit for opting for the revised scale of pay from a date subsequent to 1.1.1986 may be extended further beyond 31.12.1986 and upto 31.12.1987 to rectify an anomalous position that still existed in several cases. The matter has been examined in consultation with the Department of Personnel and Training and has also been discussed in the National Council (JCM).

3. In exercise of the powers available under Rule 13 of the Central Civil Services (Revised Pay) Rules, 1986, the President is pleased to decide that the pay of Government servants drawing their increments annually who opt to switch over to the revised scale of pay from the date of their next increment or subsequent increment falling after 1.1.1986 but not later than 31.12.1987 in respect of the post held by them on 1.1.1986 shall also be fixed in accordance with the provision of Rule 7 of the Central Civil Services (Revised Pay) Rules, 1986.

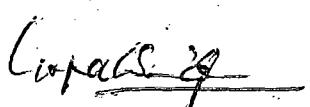
4. The option in the format appended as the Second Schedule to Central Civil Services (Revised Pay) Rules, 1986 may be exercised by

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31.8.1988. The option once exercised shall be final. The option available under these orders can be exercised afresh even by those Government servants who have already exercised option prior to the issue of these orders to switch over to the revised scales. However, the pay of Government servants who still opt to switch over to the revised scales from any date subsequent to 31.12.1987 shall be fixed in these scale under Rule 9 of the Central Civil Services (Revised Pay) Rules, 1986."

6. It is clear from the above that the option under these orders was also available to those who had already exercised option prior to issue of these orders. Therefore, the applicant was also entitled to exercise fresh option for fixation of his pay. However, he did not adhere to the last date for submission of the option i.e. 31.8.1988. He submitted his option in October, 1988 whereas the last date prescribed for submission of the option was 31.8.1988. As such, we do not find any infirmity or irregularity in the action of the respondents in not giving him the benefit of fixation of pay under the circular order dated 27.5.1988 and the applicant has to thank himself for this. In the circumstances, we do not find any merit in this application and the same deserves to be dismissed.

7. The OA is accordingly dismissed with no order as to costs.


(GOPAL SINGH)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman