

**CENTRAL ADMINISTRATIVE TRIBUNAL****CHANDIGARH BENCH****O.A. No. 060/00367/2014**

Pronounced on: 15.02.2016

**M.A. No. 060/00526/14**

Reserved on: 10.02.2016

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)  
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

...  
Braham Parkash S/o Shri Sukh Dev aged 46 years, Development Officer (PLI) office of Sr. Superintendent of Post Offices, Rohtak (Haryana)

**.....Applicant****VERSUS**

1. Union of India, through the Secretary, Government of India, Ministry of Communications and Information Technology, Department of Posts, Dak Bhawan, New Delhi -110001.
2. Director General, Department of Posts, Dak Bhawan, New Delhi - 110001.
3. The Chief Postmaster General, Haryana Circle, Ambala -133001.
4. Senior Superintendent of Post Offices, Rohtak Division, Rohtak.

**.....Respondents**

**Present:** Mr. Rohit Sharma, counsel for the applicant  
Mr. Ram Lal Gupta, counsel for the respondents

**ORDER****HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-**

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief(s):-

- (i) Quash the order dated 15.06.2010 (Annexure A-4) passed by the respondent No. 4 and order dated 26/29.10.2010 (Annexure A/6) passed by the respondent No. 3 vide which the claim of the applicant for incentive increment w.e.f. 04.02.1993 in the form of personal pay for promoting the small family norms has been rejected on the ground that the benefit is admissible to only regular employees and there is no provision to grant special increment to GDS employees, which stand is illegal, arbitrary, discriminatory, violative of article 14 and 16 of the

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Constitution of India, void ab initio and cannot be sustained in the eyes of law.

- (ii) Issue directions to the respondents in general and specially to respondent No. 2 to decide representations at Annexure A-7(colly) qua extending him benefit of decision in O.A. No. 408 of 2010 decided on 10.06.2010 (Annexure A-8) by the Hon'ble C.A.T., Ernakulam Bench for grant of incentive increment, with effect from 04.02.1993, in the form of personal pay for promoting the small family norms with arrears thereon.
- (iii) Issue direction to the respondents to grant incentive increment, with effect from 04.03.1993, in the form of personal pay for promoting the small family norms with all the consequential benefit of arrears of pay and allowances and interest thereon @ 18% per annum from the date the amount became due to the actual date of payment.

2. Averment is made in the O.A. that the applicant was appointed as BPM in the respondents department on 12.05.1992 and was promoted in P.A. cadre on 16.04.2002 vide SSPOs, Rohtak Memo No. B-4/induction trg/2000 dated 11.04.2002. The wife of the applicant had adopted small family norms as per Govt. of India Rules and underwent sterilization on 04.03.1993 from the Civil Hospital Jhajjar, vide Certificate Regd. No. 2388 (Annexure A/1). As per Office Memorandum No. 7(39)-E.III/79 dated 04.12.1979 (Annexure A/2), from the Ministry of Finance(Department of Expenditure), on introduction of incentives among Central Government employees for promoting the small family norms, applicant was eligible for small family benefit plan regulated by the Govt. of India and he applied to the SSPOs, Rohtak for the sanction of special increment, vide representation dated May, 2010 (Annexure A/3). Respondent No. 4 rejected the claim of the applicant vide office letter dated 15.06.2010(Annexure A/4) informing that the applicant was appointed in Govt. service on regular basis on 16.04.2002 and the benefit of the scheme is applicable to those who were regular employees at the time of sterilization operation. The applicant again represented to the

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Respondent No. 4- SSPO Rohtak for reconsideration of his claim as per Office Memorandum No. 7(39)-E.III/79 dated 04.12.1979 issued by the Govt. of India and further in view of the decision rendered by the Hon'ble CAT, Ernakulam Bench in O.A. No. 408/2010 decided on 16.06.2010. Respondent No. 4 forwarded the case of the applicant to Respondent No. 3- CPMG, Ambala vide office letter dated 19.08.2010. Respondent No. 2 vide office order dated 26/29.10.2010 (Annexure A/6) has rejected the claim of the applicant on the ground that the benefit of special increment granted in the form of personal pay is admissible to regular employees and there is no provision of special increment to GDS employees. The applicant represented against the order dated 26/29.10.2010 passed by the CPMG, Ambala to the D.G. (Post), New Delhi vide representation dated 29.11.2011 followed by reminder dated 15.06.2012 (Annexure A/7 colly). Till date no action had been taken on the same. However, in a similar case, the C.A.T. Ernakulam Bench in O.A. NO. 408/2010 allowed the claim on 10.06.2010 (Annexure A-8). Hence this O.A.

3. In the written statement filed on behalf of the respondents, it has been stated that as per Section 21 of CAT Act, 1985, it is specified that "A Tribunal shall not admit an application:-

(a) In a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievances unless the application is made, within one year from the date on which such final order has been made."

In the present case, wife of the applicant had undergone sterilization on 04.02.1993 as per duplicate certificate issued on 15.04.2010 and marked as Annexure A-1. The applicant represented for grant of incentive on May, 2010 i.e. after 17 years from the date of sterilization. The applicant filed O.A. after four years from the date of orders in his case (Annexure A-4 and A-6). It is further stated that

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the Department of Posts has clarified vide letter No. 6.2/99-PAP/Dated 17.07.2000 (Annexure R-1) that the benefit of special increment in the form of personal pay is admissible to regular employees and there is no provision of giving special increment to Gramin Dak Sewaks. The applicant -Braham Prakash DO(PLI) was not a regular employee of the Department at the time of sterilization of his wife on 04.02.1993. He was an Extra Departmental Agent (EDA), now called GDS and was given appointment in the Department of Posts only w.e.f 16.04.2002, hence he is not entitled for grant of special increment on account of sterilisation undergone by his wife much earlier. In affidavit filed through MA No. 060/00040/2016, it has also been stated that the services of Gramin Dak Sewaks earlier called as Extra Departmental Agents are governed by P & T EDA (Conduct & Service) Rules 1964, amended as the GDS (Conduct & Engagement) Rules, 2011 (Annexure R-1) and further as amended from time to time. Shri Braham Parkash has been promoted from GDS to PA after passing Limited Departmental Examination. His appointment as PA was a fresh recruitment and his past service rendered as GDS was not counted for any purpose/benefits after regularization. Therefore, the Gramin Dak Sewak cannot be equated to casual labourer. Casual labourers are not governed by any rules for any purpose.

4. MA 060/00526/2014 has been filed for condonation of delay in filing O.A.

5. Arguments advanced by learned counsel for the parties heard. Learned counsel for the applicant narrated the background of the matter and specifically referred to judgment of Ernakulam Bench in O.A. No. 408/2010 through which claim for special increment as made by the applicant had been allowed on 10.06.2010. On the issue of limitation, learned counsel stated that he was relying upon judgment

in the case of **M.R. Gupta Vs. Union of India and Others**, 1995(2) SCSLJ 337 that the claim of the applicant for special increment was a recurring cause of action and hence limitation did not apply in the matter.

6. Learned counsel for the respondents emphasized that the applicant was engaged as EDA and EDAs are governed by their own rules (Annexure R-1). The EDAs were not Central Govt. employees. The wife of the applicant had undergone sterilization while he was working as EDA and he could not claim any benefit of the Central Govt. instructions dated 04.12.1979 (Annexure A-2). Learned counsel also stated that the judgment of the Ernakulam Bench was distinguishable on facts as that related to a casual labourer who had got temporary status and thereafter been regularised. Such persons were not governed by any statutory rules and this distinguished the claim of the applicant in the present O.A. who was governed by the EDA/GDS Rules notified from time to time.

7. We have given our careful consideration to the matter. It is observed that the O.A. is highly belated. Applicant bases his claim for special increment on the judgment of Ernakulam Bench that was pronounced on 16.06.2010. On the basis of that judgment, the applicant had submitted his last representation for grant of special increment and the same was rejected vide order dated 26/29.10.2010 (Annexure A-6). However, the present O.A. has been filed on 22.04.2014 and cannot be considered to be within limitation.

8. We are also of the view that since the EDA/GDS have their own separate rules governing their conditions of service and these rules do not provide for any benefit of special increment on account of adopting small family norms, the claim of the applicant for the same is without merit. The position has also been adequately clarified vide

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letter dated 17.07.2000 (Annexure R-1), issued by the Ministry of Communications, Department of Posts to all Heads of Circles in the Postal Department and this instruction has not been impugned through the present O.A.

9. In view of the discussion above, this O.A. is rejected. *MA.*  
*no. 060/00526/14 also stands disposed of accordingly.*

*As*  
**(RAJWANT SANDHU)**  
**MEMBER (A)**

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**(JUSTICE L.N. MITTAL)**  
**MEMBER (J)**

Place: Chandigarh  
Dated: 15/2/2016.

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