

**Central Administrative Tribunal
Ernakulam Bench**

OA/181/00019/2014

Friday, this the 10th day of August, 2018

CORAM

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

A.C.Naderkoya, aged 67 years
S/o K.C.Sikhandar
Head Master (Retd)
Junior Basic School Centre, Agatti.
Residing at Athana Illam, Chetta House
Union Territory of Lakshadweep
Agatti-682 553.

Applicant

[Advocate: Sri N.Unnikrishnan]

versus

1. Union of India represented by
the Secretary to the Government
Ministry of Human Resource Development
Department of Education
New Delhi-110 001.
2. The Administrator
Union Territory of Lakshadweep
Kavaratti-682 555
3. The Director of Education
Union Territory of Lakshadweep
Kavaratti-682 555
4. The Head Master
Junior Basic School Centre
Agatti-682 553.

Respondents

[Advocate: Sri S.Manu rep by Sri Sreeraj]

This OA having been heard finally on 6th August, 2018, the Tribunal delivered the following order on 10th August, 2018:

O R D E R

By E.K.Bharat Bhushan, Administrative Member

This OA is filed by Sri Naderkoya, a retired Head Master. His grievance is that he had been granted 3 stagnation increments w.e.f. 1.9.1984, 1.9.1985 and 1.9.1986 as seen at Annexure A1. He claims that he is eligible for one more increment on the ground that he is covered under Clause 3 (iv) of CCS (Revised Pay) Rules, 1986 which reads:

“(iv) in the case of teachers, etc., who are in receipt of three ad-hoc increments on their stagnating for more than 4 years at the maximum of the existing scale of pay, as on the 1st day of January, 1986, four increments in the revised scale may be allowed on the 1st day of January 1986.

The above increments will be allowed after fixation of the initial pay in the revised scales in accordance with the formula recommended by the Fourth Central Pay Commission.”

Thus his claim is for 4 increments in revised scale of pay of Rs.1200-2040 after pay fixation done during the 4th CPC as per quoted portion above. He filed a detailed representation dated 4.6.2013 to the 3rd respondent as soon as he came across Annexure A4 Government Instructions. Various representations and reminders that he submitted did not elicit any positive response.

2. If the applicant had been granted the above 4 increments, his pay would have been Rs.1920/- instead of 1760/- and fixation in the senior scale of Rs 1400-2600 would be at Rs.2000/- instead of Rs.1800/-. He submits that due to clerical error, he has suffered huge monetary loss and seeks redressal of his grievances.

3. He claims the benefit of FR 22 (I)(a)(1), a copy of which has been produced as Annexure A11. The relevant portion, quoted from Swamy's Pay Rules Made Easy, is as follows:

"Stagnation increment to be taken into account for fixation of pay in the higher post:- With effect from 30.9.1993, the ad-hoc, i.e., stagnation increment(s) granted to Central Government employees will be taken into account for fixation of pay on promotion to the higher post. This benefit is admissible to the employees who are/were promoted to higher posts on or after 30.9.1993. However, employees in receipt of stagnation increment(s) and promoted to higher posts prior to 30.9.1993 will have an option to get their pay re-fixed from 30.9.1993 after taking into account the stagnation increment."

He also submits that the scale of pay of Primary School Teachers evidenced in the pay scale of teaching staff referred to in the Revised Pay Rules, 2008 supports his claim.

4. The respondents have denied the contentions raised by the applicant. Firstly, it is contended that the OA is barred by limitation. The applicant is pursuing a claim which is several years old. He had retired from service in 2006 and had made his first representation to the authorities only in 2013. His contention that he was ignorant of the revision in Pay Rules is clearly an after-thought. While admitting that the applicant had been the beneficiary of 3 stagnation increments as evidenced in Annexure A1 which is an extract of his Service Book, the respondents invite our attention to the the same Annexure A4(2) wherein it is clearly stated that the beneficiary who was in receipt of 3 adhoc increments due to stagnation as on 1st Jan 1986 [emphasis supplied] alone will be allowed the 4th increment in the revised scale on 1st Jan 1986. A perusal of the Service Book shows that as on 1.1.1986, the applicant had been the beneficiary of only 2 stagnation increments granted on 1.9.1984 and 1.9.1985, the 3rd having been granted to him only on 10.9.1986.

5. This is the 6th time the applicant is approaching this Tribunal and the five previous occasions are as follows:

- (i) OA No.636/2008: *To grant senior scale of pay on completion of 12 years of service in the grade of Primary School Teacher w.e.f. 23.1.1993.*
- (ii) OA No.695/2008: *To release the selection grade pay of Rs.530-630 w.e.f. 23.1.1979.*
- (iii) OA No.78/2013: *Alleging that the grant of selection scale w.e.f. 23.1.1993 is wrong and to be rectified.*
- (iv) OA No.22/2015: *To antedate the selection scale benefits from 23.1.1993 to 23.1.1987.*
- (v) OA No.433/2016: *Claiming 3rd up-gradation under MACP on completion of 10, 20, & 30 years respectively w.e.f. 31.1.2006.*

He had not reserved his right in any of the OAs to agitate remaining causes of action in subsequent proceedings.

6. Sri N.Unnikrishnan, learned counsel for the applicant and the Standing Counsel for the Lakshadweep Administration were heard. Sri Unnnikrishnan argued that the fact that the 3rd stagnation increment was delayed beyond 1.1.1986 had been because of the negligence on the part of the respondents, he having been eligible for the same on 1.1.1986 itself. In so far as the delay question was concerned, he submitted a copy of order of the Hon'ble High Court of Delhi in **Pooran Singh vs. UOI & Ors**, which conditionally precludes the issue of delay as the grievance sought to be addressed is of a continuous nature.

7. The Standing Counsel for the Lakshadweep Administration, on the other hand, submitted that the applicant had been regularly rushing to the Tribunal after his retirement, seeking one financial benefit or the other and it is difficult to accept his contention that he was ignorant of the requirements in the Revised Pay Rules. In a catena of judgments, the Hon'ble Supreme Court had decried the

tendency of litigants to resurrect stale claims after several years. Returning to the merits of the applicant's case, the Standing Counsel for the Lakshadweep Administration stated that after the pay revision was given effect to, an Anomaly Committee was in existence and the applicant ought to have approached that Committee, which he failed to do.

8. The applicant had been found tardy in pursuing his claim raised in this particular OA as he retired as far back as in 2006 and he sought to agitate the issue by filing a representation only in 2013. The excessive delay in filing the OA has not been justifiably explained and the OA is liable to be rejected on the question of delay alone. Delay in filing O.A or claim raised after considerable period/belated challenge is liable to be dismissed. The Hon'ble Apex Court in ***Union of India & Ors. v. A.Durairaj reported in 2010 (14) SCC 389*** held that :

13. It is well settled that anyone who feels aggrieved by non-promotion or non-selection should approach the Court/Tribunal as early as possible. If a person having a justifiable grievance allows the matter to become stale and approaches the Court/Tribunal belatedly, grant of any relief on the basis of such belated application would lead to serious administrative complications to the employer and difficulties to the other employees as it will upset the settled position regarding seniority and promotions which has been granted to others over the years. Further, where a claim is raised beyond a decade or two from the date of cause of action, the employer will be at a great disadvantage to effectively contest or counter the claim, as the officers who dealt with the matter and/or the relevant records relating to the matter may no longer be available. Therefore, even if no period of limitation is prescribed, any belated challenge would be liable to be dismissed on the ground of delay and laches.

9. In so far as the merits of the case is concerned, the regulations prescribe that an employee who is in receipt of 3 stagnation increments as on 1.1.1986 will alone be eligible for the 4th increment. On an examination of the records of the case, it is conclusively seen that as on 1.1.1986, the applicant was the beneficiary of only 2 ad-hoc increments. Thus he is not eligible for the benefit as claimed. We dismiss the OA as devoid of merit as well as on the question of excessive delay.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures produced by the applicant:

Annexure A1: Copy of the entry in Page No.24-Vol.I of his service book.

Annexure A2: Copy of entry in Page No.25-Vol.I of his service book.

Annexure A3: Copy of entry in Page No.4-Vol.II of service book of the applicant.

Annexure A4: Copy of letter No.F-5 Pay 1/86-UTI dated 10.11.1986.

Annexure A5: Copy of representation dated 4.6.2013 addressed to the 3rd respondent.

Annexure A6: Copy of the reminder letter dated 24.6.2013.

Annexure A7: Copy of the representation dated 19.7.2013 addressed to the 2nd respondent.

Annexure A8: Copy of the letter dated 10.8.2013.

Annexure A9: Copy of letter No.F.5-180/86-UTI dated 12.8.1987 issued by the first respondent's office.

Annexure A10: Copy of the guidelines for applying Fundamental Rule while carrying out pay fixation under F.R. 22 (1)(a)(2).

Annexure A11: Copy of guidelines for applying Fundamental Rule while carrying out pay fixation on promotion under FR 22 (1) (a) (1).

Annexure A12: The claim of the applicant is justified by Government of India Decision in Notification F.15(7)/IC/86 dated 13.3.1987.

Annexure A13: Copy of the revised pay scale of teaching staff.

Annexure A14: Copy of order dated 16.2.2011 in OA No.695/2008.

Annexure A15: Copy of the order awarding selection scale.

Annexure A16: Copy of guidelines copied from page 43 of Swamys – Fundamental Rules specifying application of FR 22 (I)(a)(1) and FR 22 (I)(a)(2).

Annexures produced by the respondents:

Annexure R2(a): Copy of the entry in page No.24-Vol.I of the Service Book of the applicant.

Annexure R2(b): Copy of the fixation statement F.No.26/6/86-Edn dated 19.1.1987.

Annexure R2(c) : Copy of the revised pay fixation statement of the applicant.