

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Monday 26th day of November Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/751/2015

Y. Yesubalan,
(Retired MLD),
Door No.6, Chruch Road 4,
Thiruvalluvar Nagar,
Press Colony Post,
Coimbatore- 19.

....Applicant

(By Advocate: M/s. S.Retnaswamy)

Versus

1. Union of India represented by
The Director General of Works,
Central Public Woks Department,
Government of India,
Nirman Bhavan,
New Delhi-11;
2. The Deputy Director General (HQ),
Central Public Works Department,
Southern Region,
G. Wing, 1st Floor, Rajaji Bhavan,
Besant Nagar, Chennai-600 090;
3. The Executive Engineer (Electrical),
CCED, CPWD,
No.1, Krishna Colony,
Singanallur Post,
Coimbatore-5;
4. Pay & Accounts Officer,
Central PWD (SZ),
Ministry of Urban Development & Poverty Alleviation,
Rajaji Bhavan,
Besant Nagar,
Chennai-90.

...Respondents

(By Advocate: Mr. M.T. Arunan)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. The applicant has filed this O.A seeking the following relief:-

"to call for records pertaining to the orders passed by the fourth Respondent in his letter No. Pay/CPWD/SZ/SERVICE VERIFICATION/2013-14/5085 dated 17.03.2014 and confirmed by the third Respondent in his letter No.10/4/2014/CCED/2142 dated 23.12.2014 and after going through the same set aside the said orders and direct the respondents to grant monetary benefits to the applicant as per the pay fixation done in the third Respondent's Office Order No. 10(6)/2011/CCED/CB/1662 dated 14.09.2011 for the period from 11.02.1997 to 30.11.2001."

2. It is submitted that the applicant's pay was re-fixed from Rs. 1130/- to Rs. 1200/- with effect from 11.02.1990 following the grant of selection grade as per Arbitration award on 11.2.1990. The pay fixation order was passed in this regard on 14.09.2011 (Annexure-A7). However, the respondents have not granted arrears consequent upon such re-fixation although as per Annexure-A/9 Office Memorandum of Central Public Works Department (CPWD) dated 09.06.2011, the category of M.L.D. was included at Sl. No. 24 thereof whereby the applicant was entitled to selection grade on completion of eight years of regular service in the skilled category. The order was effective from 1.1.1981 and, therefore, the applicant's re-fixation of pay with effect from 11.2.1990 was fully valid and in accordance with the said O.M. There was absolutely no reason not to pay the applicant the arrears. Accordingly, the applicant seeks a direction to the respondents to

pay him the arrears thereof including for the period from 11.2.1997 to 30.11.2001.

3. Mr. M.T. Arunan, Learned Standing Counsel for the respondents would, however, contest the claim stating that the relevant orders were passed in this regard in compliance of the order dated 22.10.2002 of the Principal Bench of this Tribunal in O.A. No 8/2002 filed by the CPWD Mazdoor Union. Arrears of pay for the period from 11.2.1997 to 30.11.2001 was not given to the applicant as per the instructions of Directorate General of Works/CPWD, New Delhi. The latter had stated in their Office Memorandum dated 26.2.2003 that it had been conceded at Bar that the applicants therein would not claim arrears of pay for the period before filing of their application. Hence the question of payment of arrears from 11.2.1997 to 30.11.2001 did not arise.

4. On perusal, it is seen that the applicant was initially appointed as Electrical Khalasi in the CPWD on 08.05.1974 and later appointed as Motor Lorry Driver (MLD) w.e.f. 11.02.1982. The applicant was promoted as Motor Lorry Driver (MLD) Grade-I w.e.f. 11.02.1997 on completion of 15 years of service as MLD as per 'Promotion Scheme for Motor Lorry Drivers' (PSMLD) introduced by the 1st respondent by O.M. dated 26.2.2003 which was stated to be incompliance with the order of the Principal Bench order dated 22.10.2002. Hence the arrears of pay for the period from 11.2.1997 to 30.11.2001 was not drawn as agreed to by the litigant in the OA.

5. It is not the applicant's contention that the pay fixation made by Annexure-A7, Office Order dated 14.09.2011 was erroneous. Since it is not

disputed that the applicant is not entitled to any pay arrears following his appointment as Grade-I MLD on 11.2.1997 till 30.11.2001, the only point to be decided is whether the applicant continued to be paid during such time as if he had continued as MLD in Selection Grade on the basis of the 5th pay commission pay scales along with increments. Neither the applicant has made any specific allegation in regard to denial of the benefit of pay fixation in the selection grade nor have the respondents thrown light on this in their reply.

6. In view of the above, I deem it appropriate to dispose of this OA with permission to the applicant to make a comprehensive representation regarding his grievance in the event of his not being paid for the period from 11.02.1990 to 30.11.2001 even in terms of the pay he was entitled to in the selection grade of MLD within a period of one month from the date of receipt of copy of this order. Upon such representation, the respondents shall examine the matter in terms of the Service Records of the applicant and actual payments made at the relevant time and pass a reasoned order within a period of two months thereafter.

7. OA. is disposed of as above. No costs.

(R. RAMANUJAM)
MEMBER (A)

26.11.2018

Asvs.