

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH
CIRCUIT BENCH SITTING
AT KAVARATTI
UT of LAKSHADWEEP

Original Application No.181/00727/2016

Wednesday, this the 20th day of February, 2019

CORAM :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

K.K.Malik,
S/o.Shaik.P.V.,
Trained Graduate Teacher, Malayalam,
Government Girls Senior Secondary School,
Androth, UT of Lakshadweep.
Residing at Kalkulam House,
UT of Lakshadweep, Kiltan.Applicant

(By Advocate : Mr.M.R.Hariraj)

v e r s u s

1. Union of India
represented by Secretary to Government of India,
Ministry of Human Resource Development,
New Delhi – 110 001.
2. Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
3. Director of Education,
UT of Lakshadweep, Kavaratti – 682 555.Respondents

(By Advocates : Mr.C.P.Ravikumar, ACGSC [R1] & Mr.S.Manu [R2-3])

This application having been heard on 15.02.2019, the Tribunal on 20th February 2019 delivered the following :

O R D E R

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member -

O.A.No.181/727/2016 is filed by Shri.K.K.Malik who is aggrieved by refusal of the respondents to step up his pay to that of his junior despite clear finding of anomaly.

2. The facts of the case are as follows :

The applicant commenced service on 19.9.1990 and the applicant's junior one Shri.T.P.Kunhikoya commenced service on 1.12.1990. In the final check list the applicant figures at Sl.No.132 and Shri.T.P.Kunhikoya figures at Sl.No.133. Pursuant to 5th Central Pay Commission both were allowed the scale of Rs.5500-175-9000 and were given fixation at Rs.5675/- with date of increment as 1.7.1996. However, subsequently the date of increment of junior Shri.T.P.Kunhikoya was antedated with reference to another junior of both Shri.T.P.Kunhikoya as well as the applicant to 1.6.1996. The applicant represented before the respondents for similar pre-dating as has been done in the case of Shri.T.P.Kunhikoya. The Principal of the Government Senior Secondary School, District Panchayat, Kiltan allowed the representation of the applicant and his pay was fixed as Rs.5850/- with date of increment as 1.6.1996 as has been done in the case of Shri.T.P.Kunhikoya. However, this order was not carried out and the applicant represented against the non action through representations at Annexure A-3 and Annexure A-4. The pay slips of the applicant continues to show this anomaly. The applicant goes on to mention that there are other juniors who are drawing higher pay than him. The case of one Shri.K.I.N.Hyderali, whose pay slip is produced at Annexure A-7, is one

such instance.

3. As grounds it is maintained that it is universal principle that a senior cannot draw a lower pay than the junior and if it occurs this anomaly has to be cured at the earliest by giving stepping up to the senior. Despite the clear finding on the principle, no action has been taken by the respondents.

4. Shri.M.R.Hariraj, learned counsel for the applicant and the Standing Counsel for the Lakshadweep Administration were heard. Learned counsel for the respondents drew our attention to the Government of India O.M dated 31.3.1984 and its clarification issued by the Ministry of Personnel and Training, Government of India, portions of which are extracted in the reply statement. It appears that the applicant's pay had already been stepped up and there is no scope for stepping up the same again as per the clarification issued to in the O.M. The clarification narrates as below :

“ It is clarified that the benefits of stepping up of pay can be allowed to a senior official, second time, provided the anomaly has arisen with reference to the pay of the same junior, with reference to whom the pay of senior was stepped up first time. Type of cases quoted below can be examined and decided at their own merits in consultation with this Department as and when they occur.”

5. However, there is no evidence at hand to ascertain whether such reference has been made in the case of the anomaly which is clearly discernible. During the final argument Shri.M.R.Hariraj produced a copy of the pay slip of the applicant for the month of January, 2019 which mentions the basic pay of Rs.71300/- whereas Annexure R-2(a) produced by the

respondents indicate a figure of Rs.73400/- as drawn as on 1.7.2017. Clearly considerable confusion has been created by lack of application of mind on the part of the respondents. Firstly, on account of the stepping up ordered by the Principal as per Annexure A-1 not being implemented and secondly by anomaly continuing to be retained in further disbursement.

6. In the light of the above, the O.A stands disposed of. We conclude that a direction is to be issued to 3rd respondent to consider the contention raised in the O.A giving due importance to the principle that no senior can draw a salary less than that of his junior. The 3rd respondent is also called upon to rectify the anomaly that persist in his present disbursement of salary as is evidenced in the copy of the pay slip provided to us by the learned counsel for the applicant. Ordered accordingly. The orders in this regard shall be issued within a period of 30 days from the date of receipt of a copy of this order. No costs.

(Dated this the 20th of February 2019)

(Ashish Kalia)
Judicial Member

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List of Annexures in O.A.No.181/727/2016

(E.K.Bharat Bhushan)
Administrative Member

1. Annexure A-1 – True copy of the Office Order No.15/03/2008-GSSSK, dated 14.9.2012 issued by the Principal.
2. Annexure A-2 – True copy of the Letter No.1/22/2014-MGSSA(DP)/7 dated 31.12.2014.
3. Annexure A-3 – True copy of the representation dated 18.5.2016 before the 3rd respondent.
4. Annexure A-4 – True copy of the representation dated 31.5.2016 before the 2nd respondent.

5. Annexure A-5 – True copy of the pay slip of the applicant for May, 2016.
6. Annexure A-6 – True copy of the pay slip of Mr.Kunhikoya.T.P., for February, 2016.
7. Annexure A-7 – True copy of the Salary Certificate of K.I.N.Hyderali, for January, 2016.
8. Annexure R-2(a) – True copy of the order F.No.18/9/2016-EDN(DP) dated 30.8.2018 issued by the Senior Administrative Officer Department of Education, Lakshadweep District Panchayath, Kavaratti.
