

**Central Administrative Tribunal  
Ernakulam Bench**

OA No.180/00169/2016

Thursday, this the 12<sup>th</sup> day of June, 2019

CORAM

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

V.Balakrishna Panicker, aged 67 years  
S/o Late Velayudhan  
HSG II-Accounts Supervisor (Retired)  
RMS CT Division, Head Record Office  
Kozhikode-673 032.  
Residing permanently at Sree Sylam, Gramattam,  
Velloor P.O., Pampady  
Kottayam-686 501.

Applicant

(Advocate: Mr. P.A.Kumaran rep by Mr.Nirmal V.Nair)

**versus**

1. Union of India represented by  
the Secretary to Government of India  
Ministry of Communications and Information Technology  
Department of Telecommunications  
Sanchar Bhawan, 20, Ashoka Road  
New Delhi-110 001.
  2. The Chief Postmaster General  
Kerala Circle, PMG Bhavan  
Thiruvananthapuram-695 033.
  3. The Postmaster General  
Northern Region, Kozhikode-673 011.
  4. Superintendent of Posts  
RMS CT Division,  
Calicut-673 032.
- Respondents

(Advocate: Mr.K.Kesavankutty, SCGSC)

The OA having been heard on 6<sup>th</sup> June, 2019, this Tribunal delivered  
the following order on 12.06.2019.

**ORDER****By Ashish Kalia, Judicial Member**

The applicant is aggrieved by the rejection of his request to accept his re-option to come over to the revised pay structure after 1.1.2006 on the date on which he earns his next increment in the existing scale in accordance with the Central Civil Services (Revised Pay) Rules, 2008. He seeks the following reliefs:

*i) Quash Annexures A1, A2, A8 and A9;*

*ii) Declare that the applicant is entitled to have his Annexure A5 re-option accepted and to come over to the revised pay structure on 1.2.2006 after earning his next increment in the existing pay scale and to direct the respondents to accept the Annexure A5 re-option and to permit him to come over to the revised pay structure on 1.2.2006 after earning his next increment in the existing pay scale and fix his pay in the revised pay structure accordingly.*

*iii) Direct the respondents to re-fix the pay of the applicant in the revised pay structure after granting him the advance increment in the existing scale of Rs.5000-150-8000 as on 1.1.2006 as per Annexure A3 and the increment due on 1.2.2006 in the existing scale and the next increment in the revised pay structure on 1.7.2006 as per Annexure A3 and to draw and disburse all the consequential benefits including arrears of pay and allowances and pension and pensionary benefits with interest @ 12% per annum from the date on which the amount fell due till the date of actual payment.*

2. The applicant while working as HSG-II Accounts Supervisor under the 4<sup>th</sup> respondent, retired on superannuation on 30.9.2008. On the date of applicant's retirement, the CCS (RP) Rules, 2008 were promulgated by the Ministry of Finance, bringing it into force with effect from 1.1.2006. As on 1.1.2006, the applicant was drawing a pay of Rs.7700 in the existing scale of Rs.5000-150-8000. He had drawn his previous increment on 1.2.2005. As such, his next increment was due on 1.2.2006. As per Rule 5 of the CCS (RP) Rules, 2008, a Government servant shall generally draw pay in the revised

pay structure applicable to the post to which he is appointed. The 1<sup>st</sup> proviso to Rule 5 stipulates that a Government servant may elect to continue to draw pay in the existing scale until the date on which he earns his next or subsequent increment in the existing scale. Rule 6 (2) stipulates that those Government servants wanting to continue in the existing scale as per the 1<sup>st</sup> proviso to Rule 5 shall intimate their option to the Head of Office. Rule 10 stipulates that from the date of its promulgation there will be a uniform date of annual increment., viz 1<sup>st</sup> of July every year. It further states that the first increment after fixation of pay on 1.1.2006 in the revised pay structure will be granted on 1.7.2006 and 1.1.2007. Those employees who were due to get their increment in January 2006 were assured of being granted the increment while revising and re-fixing their pay in the revised pay structure.

3. Those who were due to get their increment only between July, 2006 and January, 2007 were assured of an advance increment which was to be granted on 1.7.2006 before fixing their pay in the revised pay structure. According to the applicant, Rule 10 is silent about next increment due for those employees whose increment fell between February, 2006 and June 2006 and those employees lost an increment perpetually, affecting their pay and allowances as well as pension and pensionary benefits.

4. This matter was raised in the first meeting of the National Anomaly Committee held on 12.12.2009 and requested the Establishment to grant an advance increment in the existing scale on 1.1.2006 to those employees who were due to get their increment between February, 2006 and June, 2006.

Ultimately, by O.M., dated 19.3.2012, the President was pleased to decide that in relaxation of stipulation under Rule 10 of the Rules, those Central Government employees who were due to get their annual increment between February to June 2006 may be granted one increment on 1.1.2006 in the pre-revised pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006. It was directed that the pay of the eligible employees may be re-fixed accordingly.

5. It is further stated that the employees who were due to get their increment between February to June, 2006 were entitled for an advance increment in the existing scale on 1.1.2006 and thereafter they were entitled to opt to continue to draw pay in the existing scale until the date on which one earns next or subsequent increment in the existing scale as per the 1<sup>st</sup> proviso to Rule 5 of the CCS (RP) Rules, 2008. There is nothing in the words of Annexure A3 which would directly or implicitly indicate that the benefit to continue in the existing scale until date of next increment in the existing scale was abrogated upon the implementation of Annexure A3. This issue was again taken up by the Anomaly Committee and another O.M. dated 3.1.2013 was issued, para 4 of which reads thus:

*"4. The matter has been considered by the Government and having regard to the facts that the provisions of the aforesaid O.M. dated 19.3.2012 bring about a material change in the basis for exercise of option to come over to the revised pay structure in terms of the CCS (RP) Rules, 2008 in respect of employees who are covered under the said O.M., dated 19.3.2012, the President is pleased to decide that all employees who are covered under the provisions of the aforesaid O.M., dated 19.3.2012 may once again be permitted to re-exercise their option to come over to the revised pay structure."*

6. The applicant made a representation dated 23.2.2013 along with an option to come over to revised pay structure. This was followed by several representations. The request of the applicant was rejected vide Annexure A8 order on the ground that the applicant is not eligible for one more increment in old scale on 1.2.2006 as the old scale did not exist on that date.

7. Notices were issued to the respondents who have filed their reply. It is submitted in the reply that Ministry of Finance vide OM dated 19.3.2012 had allowed one increment on 1.1.2006 in respect of officials who were due to get their annual increment between February to June 2006 in the pre-revised scale of pay. Accordingly the pay of the official whose annual increment in the pre-revised scale was in February was revised on the strength of the option dated 19.9.2008.

8. It is further submitted that the representation submitted by the applicant, dated 23.10.2014 was considered and the matter referred to the 3<sup>rd</sup> respondent, as per directions of Director of Accounts (Postal). The Accounts Officer in their office of the 3<sup>rd</sup> respondent intimated that the applicant is not eligible for any further benefits on account of fixation of pay. It was further submitted that there is no order permitting to revise the option after getting one additional increment as on 1.1.2006 by virtue of increment in the pre-revised scale of pay from February to June 2006.

9. It is submitted that proviso to Rule 5 of CCS (RP) Rules 2008 states that a Government servant may elect to continue to draw pay in the existing scale until the date on which he earns his next increment in the existing scale

or until he vacates his post or ceases to draw pay in that scale and for this purpose, he has to exercise his option. The option once exercised shall be final. The employees who have elected to continue in the existing scale of pay until the date of their next increment from February to June 2006 in the pre-revised scale pay are allowed to re-exercise their option as on 1.1.2006, and without a revised option, the said employees could not get the benefit of one additional increment as on 1.1.2006. Therefore, the applicant is not entitled for a re-option for re-fixation of pay.

10. Heard Mr.Nirmal V.Nair, counsel representing Mr.P.A.Kumaran, learned counsel for the applicant and Mr.K.Kesavankutty, learned ACGSC for the respondents and examined the records in detail.

11. The issue raised in the OA is whether the applicant is entitled to submit a re-option to come over to the revised pay structure from 1.2.2006 after gaining the next increment in the existing scale. In accordance with the provisions contained in Rule 10 of the CCS (RP) Rules, 2008, there will be a uniform date of annual increment, viz., 1<sup>st</sup> July of every year. Learned counsel for the applicant has drawn our attention to Annexure A3 OM dated 19<sup>th</sup> March 2012 which states as follows:

*"The staff side has represented on this issue and has requested that those employees who were due to get their annual increment between February to June 2006 may be granted one increment on 1.1.2016 in the pre-revised scale. On further consideration and in exercise of the powers available under CCS (RP) Rules, 2008, the President is pleased to decide that in relaxation of stipulation under Rule 10 of these Rules, those Central Government employees who were due to get their annual increment between February to June*

*during 2006 may be granted one increment on 1.1.2006 in the pre-revised pay scale as a one time measure and thereafter will get the next increment in the pre-revised pay structure on 1.7.2006. the pay of the eligible employees may be re-fixed accordingly."*

12. In view of this benefit extended to Central Government employees as per the OM dated 19.3.2012, the issue relating to affording of a fresh opportunity to Central Government employees to re-exercise their option to come over to the revised pay scale as per CCS (RP) Rules, 2008 was raised before the National Anomaly Committee held on 17.7.2012.

13. The matter has been considered by the Government and having regard to the facts that the provisions of the aforesaid O.M. dated 19.3.2012 bring about a material change in the basis for exercise of option to come over to the revised pay structure in terms of the CCS (RP) Rules, 2008 in respect of employees who are covered under the said O.M., dated 19.3.2012, the President is pleased to decide that all employees who are covered under the provisions of the aforesaid O.M., dated 19.3.2012 may **once again be permitted to re-exercise their option** to come over to the revised pay structure.

14. On implementation of 6<sup>th</sup> CPC on 1.1.2006, the Government had decided that there would be uniform date of annual increment i.e., on 1<sup>st</sup> July of every year, An employee who has completed 6 months will be granted increment on 1st July of every year. CCS (RP) Rules stipulate that from the date of its promulgation, there will be uniform date of increment and the said Rule says about those employees for whom the date of increment was between 1<sup>st</sup> July, 2006 and 1<sup>st</sup> January, 2007 but for those employees who are due to get increment by revising or re-fixing their pay

in the revised pay structure, the Rules are silent. According to the applicant, he lost an increment permanently and this has affected his pay thereafter. Respondents, per contra, contested the matter by stating that the applicant was granted an increment pursuance to OM dated 19<sup>th</sup> March, 2012, pursuant thereto the applicant's increment was fixed w.e.f. 1.1.2006 to existing pay scale and his pay was revised from Rs.13,330/- plus Grade Pay to Rs.13,610/- plus Grade Pay and in the subsequent years from 1<sup>st</sup> July onwards.

15. By citing Rule 6 of CCS (RP) Rules, option once exercised shall be final. Employees who have elected to continue the existed scale of pay are allowed to exercise their option as on 1.1.2006 and without the revised option, such employees could not get the benefit of additional increment as on 1.1.2006 and the same has duly been granted to the applicant after considering his revised option as one time measure. Applicant was granted one increment w.e.f. 1.1.2006 whereas it was due in February. Once the same is given to the applicant, he is at par with other employees. There is no loss of increment as stated in the OA.

16. We are of the view that the applicant has been given the benefit of one increment in the pre-revised scale as on 1.1.2006 and his pay was fixed with increment in January, 2006 which was revised one month in advance in accordance with Government orders on the subject.

17. The present Original Application is devoid of merit whatsoever and the same is dismissed with no order as to costs.

(Ashish Kalia)  
Judicial Member

(E.K.Bharat Bhushan)  
Administrative Member

**Annexures filed by the applicant:**

- Annexure A1: Copy of the order No.A&P/18-1/2010 dated 5.1.2016 issued by the 3<sup>rd</sup> respondent.
- Annexure A2: Copy of the order N.PEN/420/CT Dn dated 8.1.2016 issued by the 4<sup>th</sup> respondent.
- Annexure A3: Copy of the O.M. No.10/02/2011-E.III/A dated 19.3.2012 issued by the Director, Ministry of Finance, Department of Expenditure, New Delhi.
- Annexure A4: Copy of the O.M.No.10/2/2011-E-III<sup>CA</sup>dated 3.1.2013 issued by the Director, Ministry of Finance, Department of Expenditure, New Delhi.
- Annexure A5: Copy of the representation dated 23.2.2013 along with the re-option submitted by the applicant before the office of the 4<sup>th</sup> respondent.
- Annexure A6: Copy of the representation dated 15.5.2013.
- Annexure A7: Copy of representation dated 10.5.2014 before the 4<sup>th</sup> respondent.
- Annexure A8: Copy of the order No. A&P/18-1/2010 dated 17.3.2015 issued by the Accounts Officer, Office of the 3<sup>rd</sup> respondent.
- Annexure A9: Copy of the order No.PEN/420/CT Dn dated 8.7.2015 issued by the 4<sup>th</sup> respondent.
- Annexure A10: Copy of the representation dated 15.7.2015 submitted by the applicant.

**Annexure filed by the respondents**

- Annexure R1: Revised AE No.13550/Pen1/C-356/08-09 dated 28.1.2013.
- Annexure R2: Copy of Rule 5 of CCS(RP) Rules, 2008.
- Annexure R3: Copy of Rule 6 of CCS (RP) Rules, 2008.