
(2006) 01 DEL CK 0145
In the Delhi High Court
Case No : WP (C) No. 4216 of 1999

Mohammad Qaseem

APPELLANT

Vs

Coal India Ltd. and Another

RESPONDENT

Date of Decision : 02-01-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2006) 129 DLT 177 : (2007) 2 SLJ 280

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : R. Mukhupadhyay, for the Appellant; Anip Sachthey and Mohit Paul for R-1, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—The petitioner, under Article 226 seeks appropriate directions that the scale of pay, fitment method and postponing date of increment, as per the office memorandum of the first respondent dated 10.09.96 be declared illegal and arbitrary. Consequential directions have been sought to fix his pay correctly; for disbursement of increments at 4% per annum and restoration of increment in accordance with what was being earned by him previously.

2. The Coal Mines Authority Limited (CMAL) was established and incorporated, consequent upon nationalization of coal mines; it was later renamed as the Coal India Ltd. A common coal cadre was formulated for administration of the Executives of the erstwhile corporate entities. On 13.01.86, the terms of the common coal cadre were amended in respect of various conditions of service, as regards the date of increment, it was provided that annual increments in the executive grade would be released on 1st January or 1st July, each year, as per the procedure outlined. Thus any official promoted/appointed between the period 1st January to 30th June was granted increment from 1st January of the following year; likewise, those appointed between the period 1st July and 31st

December was to receive increment in the grade from 1st of July of the following year.

3. The Coal India revised the pay scales of its Executives w.e.f. 01.01.87; however, the methodology of granting increments remained unaltered. In the year 1995, the petitioner was promoted with notional seniority in E-7 grade, E-8/M-2 grade of M-3 with retrospective effect. By an order dated 10.09.96, the Coal India revised the pay scales w.e.f. 01.01.92. By this, the rate of increment was fixed and the methodology of calculating of granting the increment too was changed. The said condition, Clause 4 reads as follows:-

Increment

(a) The rate of annual increment will be 4% of basic pay subject to a maximum of Rs. 400/- per month.

(b) The anniversary date of increment will be 1st April as against 1st January and 1st July as per present practice.

4. The petitioner had originally approached the Court for multiple reliefs but during the course of hearing, counsel confined the claims for appropriate directions that the methods of fixing increment be declared as illegal and for restoration of the pre-existing position. The second relief was that the petitioner should be given increments as per Clause 4(a) of the memorandum.

5. In its return, the Coal India has taken the position that there is no infirmity in the scheme. It has admitted that the methodology adopted for changing the date of increment could cause some inconvenience to a few persons; however it avers that the validity of the entire scheme cannot be judged on the basis of inconvenience caused to a few persons, particularly in view of the fact that it evolved a new benefit and granted it to all, alike. The scheme was primarily meant for pay revision and even the petitioner had benefitted by it.

6. It is averred that in view of the new pay scales, continuation with the methodology of disbursing increments would have led to serious anomalies as juniors getting lesser pay in the pre-revised scale of pay would have got more pay than seniors in the revised grades. This would have led to unrest and also created a bad precedent. The respondents have also alleged that the pay revision and the pay fixation formula had been implemented pursuant to an agreement which had even come to an end on 31.12.96. Consequently, if the entire matter were to be reopened, it would result in serious anomalies and unrest among the entire class of Executives.

7. As far as the issue with regard to the denial of 4% in the new grade is concerned, it is averred that the petitioner's grievance has to be viewed from the perspective that difference in the ultimate pay and the final stage of the pay scale has been projected by him, which gives a misleading picture. It is submitted that Clause 4(a) required increment at 4%; nevertheless there was a ceiling of Rs. 400/-. While working out the pay scale, the Coal India had to take

into consideration the fitment and fixation formula and ensure that the maximum indicated in the pay scale as well as the outer limit of Rs. 400 were not exceeded. Viewed from this angle, the denial of 4% at the final stage of the pay scale cannot be called arbitrary.

8. Mr. Rajender Singh, learned counsel for the petitioner submitted that the formula or new method of granting increments had resulted in arbitrariness. This had led to postponement of increment in respect of one group of employees to extent of 15 months whereas in the case of Executives belonging to another group some had benefited by preponment of increment. It is submitted that there is absolutely no rationale for this invidious discrimination which is also arbitrary. All employees fall within one class; they have been given the benefit of new pay scales. Yet, the postponement of increments, to some and preponement to others, amounts to treating equals unequally.

9. Learned counsel also submitted that the practice and the method adopted for pay fixation was arbitrary. He relied upon a chart to say that in the petitioner's case, the basic as on 31.12.91 was Rs. 7300/-, which was the maximum of the pre-revised scale. In the revised scale, the pay fixed was Rs. 9000 plus 735 as personal pay. Due to change of date of increment, the basic salary as on 01.04.92 was Rs. 9360/-; it became Rs. 9735/- on 01.04.93. On 01.04.94 it became Rs. 10125/- and finally on 01.04.95, when the petitioner was to reach the maximum of his revised pay scale, he was given the increment of Rs. 375/- which was neither 4% nor Rs. 400/-. A similar anomaly was pointed out in respect of M-3 grade w.e.f. 30.03.96. No doubt, he was given an increment of Rs. 400 and his basic pay became Rs. 11475/-. Subsequently on 01.04.97, he was given increment of a paltry amount of only Rs. 25 which was neither 4% nor Rs. 400/- as per Clause 4(a).

10. Mr. Anip Sachthey, learned counsel for the Coal India submitted that as far as the first grievance regarding the date of increment is concerned, the scheme had to be viewed as an entire package. It conferred the benefit of pay revision to all persons who were in employment, including the petitioner. By an large, it conferred advantages to all in the form of pay revision and enhancement of allowances etc. In the formulation of such a system, which was admittedly new, the Coal India could not be expected to perform a perfect exercise. Small grievances, Therefore, naturally arose on account of creation and administration of a new system. He submitted that if the effect of a new scheme or provision is by and large beneficial and confirms to the mandate of Article 14, the fact that it might create minor anomalies, would not result in its invalidity.

11. Learned counsel submitted that the postponment of date of increment in respect of a few officials might cause perceived hardship to them. Nevertheless, the benefits derived by them on account of creation of new pay scale (which preserved their existing benefits and even granted better conditions), would outweigh such perceived hardships. He also submitted that having regard to the fact that a large body of employees, were given benefits and had accepted it, it

would neither be in public interest nor appropriate for the Court to intervene in such a policy decision under Article 226 of the Constitution of India in the matter of fixation of date of increment.

12. On the second issue of the rate of increment, it was submitted that the anomaly pointed out by the petitioner pertained only to the final stage of pay. Thus, in the concerned grades, no grievance was made out till the penultimate stage of the pay scale. However, having regard to the fitment formula, which had to be as per Clause-2 of the scheme, the basic pay could never exceed the maximum amount indicated. Thus, necessarily, the Coal India had to operate within the band of the pay scale. In the case of the petitioner, after the grant of the penultimate increment working out to Rs. 400 and Rs. 375 respectively, the final stage resulted in situations where the increment was naturally a small amount. If each official were to be granted 4% increment subject to a maximum of Rs. 400, the maximum indicated in the pay scale would have no relevance at all. It was submitted that the contention raised by the petitioner cannot be accepted and defies logic and the very sanctity of having a pay scale.

13. Clause-4 deals with both the issue of rate of increment as well as the date or period from which it has to be disbursed. As far as the date of increment is concerned, admittedly, the petitioner and others like him were working with private organizations prior to establishment of the Coal India and creation of a common cadre. It is not clear as to what was the position prevailing between the year 1973 and 1986. What has been brought on record is that the method of calculating date of increment was put in place w.e.f. 01.01.86. Thus in 1986, the concept of anniversary date for increments was put on a rational and objective basis. The petitioner has not and understandably cannot raise any grievance on that score because such a rationalization took place for the first time in the year 1986 and it is far too late in the day to complain of it. After a period of ten years and having regard to the imperative of pay revision, the entire aspect appears to have been given a fresh look. While considering and putting in place, a new set of pay scales, the formula of pay fixation and also dates from which annual increments had to be disbursed was also indicated. While doing so, the Coal India had to take into consideration the experience gained for the period after 1986 as also the likely impact of such pay revisions upon the existing policy of disbursing increments.

14. The change in the method of disbursing annual increments has led to postponment of that benefit in the case of some Executives. The question is whether such postponment is arbitrary and unreasonable. The defense of the Coal India that continuation of the old method while operating the new pay scales and fitment/fixation formula would have resulted in greater anomalies and led to unrest among Executives, since it would have caused juniors within the same pay scale in the same grade to draw more salary. I am of the opinion that in view of this position, as well as the fact that the entire pay revision exercise has to be seen as one common exercise comprehending different elements

including the method of disbursement of increments, a small hardship such as postponement of increment cannot by itself be termed as arbitrary. It has been often held that while putting in place a new scheme or set of rules, regulating conditions of service of employees working in a public organization, Articles 14 and 16 do not exact perfection. The scheme has to be by and large beneficial and subserve the larger interest of those it seeks to cover. It seeks to achieve a broad objective of maximum coverage to different categories of employees. In its attempt for equity or benefit for all, the aim of a large scheme such as the pay-revision scheme, would not satisfy the minute requirements of every person it covers. To put it another way, no scheme can be perfect. As long as it achieves its broad objectives and does not willfully exclude persons who would, otherwise, be entitled to its benefits, the Court would not interdict one or other of its terms on the ground of arbitrariness. Supreme Court in its judgment reported as *Reserve Bank of India and Others Vs. C.N. Sahasranaman and Others*, held as follows:-

In matters of service conditions, it is difficult to evolve an ideal set of norms governing various conditions of service and in a grey area where service rules operated, if more than one view is possible without significance either reason or common sense, the ultimate choice has necessarily to be conditioned by several considerations ensuring justice to as many as possible and injustice to as few. Viewed in that light, it is true, there may be individual circumstances exemplifying injustice by postponing or delaying the chances of promotion of the contesting respondent yet that does not deny them their constitutional rights in its proper measure and the considerations that have weighed with the making of the modified scheme and in the light of the other considerations mentioned hereinbefore, we must ensure that whatever care with objective or foresight any rule is framed, some hardship, inconvenience or injustice might result but the paramount consideration is the reconciliation of the conflicting claims....

A similar reasoning appears in the judgment of the Supreme Court in *New Bank of India Employees Union and another Vs. Union of India and Others*,

15. In view of the said decisions and having regard to the factors mentioned above, I am of the opinion that the postponement of increments in the case of petitioner is neither arbitrary nor violative of Article 14 of the Constitution of India.

16. Coming to the second issue of rate of increment, Clause 4(a) undoubtedly indicates the increment to be disbursed in the new pay scale as 4% of the basic pay subject to a maximum of Rs. 400/-. This implies certain amount of flexibility. This flexibility of working within the parameters of 4% and Rs. 400 would, in my opinion, operate smoothly till a certain stage in the basic pay scales. The two instances pointed out by the petitioner are in respect of increments to be drawn after the penultimate stage i.e., while reaching the final stage. At that stage, outer limit of pay scale assumes importance. Thus in addition to the assured 4% (subject to a maximum of Rs. 400) one more parameter gets added, namely, the higher limit of the pay scale concerned. In the petitioner's case, the final

increments were admittedly in two digits. But in my opinion, this cannot be a grievance having regard to the flexible nature of the rate of increment. Unlike other pay regimes, where the increments are fixed amounts, the increments as per Clause 4(a) are variable. Thus at the final stage of pay, the increment which would have to necessarily within the grade, would end up with different final basic salaries, if the petitioner's arguments were to be accepted. That would not be conducive to public interest. Besides, it would have led to adverse financial implications as far as the Coal India was concerned. Therefore, I find no infirmity or arbitrariness in the conduct of the respondents on this score.

17. In view of the above conclusions, no relief can be granted to the petitioner.

The petition is accordingly dismissed. Rule discharged.