

(2014) 08 MAD CK 0273

In the Madras High Court

Case No : Writ Petition No. 11597 of 2014 and M.P. No. 1 of 2014

Union of India

APPELLANT

Vs

V. Krishnan

RESPONDENT

Date of Decision : 14-08-2014

Acts Referred:

Citation : (2014) 08 MAD CK 0273

Hon'ble Judges : Satish K. Agnihotri, J;M.M. Sundresh, J

Bench : Division Bench

Judgement

1. The respondent Nos. 1 to 6 on the one hand and the respondent No. 7 on the other, joined service in the Department of Telecommunications ("DOT" in short) as Telephone Operators in Group "C" cadre and at the scale of pay in Grade-I. Pursuant to the option given by them, they were absorbed in BSNL from the date on its inception i.e., from 01-10-2000. The respondent Nos. 1 to 6 received all the three promotions(OTBP, BCR & 10%BCR) and reached Grade IV scale. Thereafter, they retired from service either by superannuation or by opting voluntary retirement. The respondent Nos. 1 to 6 filed an application before the Tribunal alleging that the respondent No. 7, who was junior in service to them, received about a sum of Rs. 500/- per month more than them, which according to them was a pay anomaly, which has to be rectified.

2. A reply was filed by the petitioners contending that the respondent Nos. 1 to 6 got three promotions while working with DOT under Central Dearness Allowances ("CDA" in short) with effect from 01-10-2000. When respondent Nos. 1 to 6 were absorbed in BSNL, they were fixed in the corresponding Industrial Dearness Allowances ("IDA" in short) pay scale of 8570 245 12245 in BSNL. Adopting the principle of point-to-point fixation, the benefit of the number of increments earned by them in the earlier scale, was given effect to them and the pay was fixed as tabulated below:

Respondent

Pay fixed under FR 22 in the new scale (BSNL)

(in Rupees)

Pay fixed after giving Increment on 01-01-2001(annual increment)

(in Rupees)

No. 1

10040

10285

Nos. 2 to 6

9795

10040

3. As far as respondent No. 7 is concerned, he was receiving Rs. 7250/- per month in the scale of pay of 5500 175 9000 in DOT after reaching Grade III scale. Ten points were to his credit. On his absorption to BSNL, his corresponding new scale was 7800 225 -11175. Applying the point-to-point fixation under FR 22, he was given benefit of 10 points i.e., Rs. 2250/- and his pay was fixed as tabulated under:

Respondent

Pay fixed under FR 22 in the new scale (BSNL)

Pay fixed after giving Increment on 01-11-2000 (Annual increment)

Pay fixed at next higher pay on his 3rd promotion to Grade IV (10%BCR) on 01-01-2001

No. 7

10050

10275

10500

no match so fixed at 10530

As per FR 22 the pay of respondent No. 7 was fixed at Rs. 10,500/- by awarding one notional increment. As there was no match of notionally arrived pay of Rs. 10,500/-, his pay was fixed at next higher pay of Rs. 10,530/-.

4. The Tribunal allowed the application by treating the above said difference in pay as an anomaly. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the petitioners submitted that the

respondent Nos. 1 to 6 and respondent No. 7 are not similarly placed on facts. The pay has been fixed as per FR 22. There is no discrimination as alleged. The pay has been fixed as per law. The reasoning of the Tribunal cannot be sustained in the eye of law. Therefore, it is submitted that the writ petition will have to be allowed.

6. Per contra, the learned counsel appearing for the respondent Nos. 1 to 6 submitted that it is a case of pay anomaly. Admittedly, the respondent Nos. 1 to 6 were senior to respondent No. 7. The Tribunal has taken into consideration the relevant materials and therefore, no interference is required.

7. The summation of facts as given above is not in dispute. Admittedly, the respondent No. 7 has obtained 10 points by way of 10 increments. For the reasons best known to respondent Nos. 1 to 6, they did not seek the said relief for a long time. Only after their retirement, they have woken up from slumber. The writ petitioners have followed the principle of point-to-point fixation. Based upon the said principle, which is permissible in law, the pay was fixed for the respondents. It is not as if the respondent Nos. 1 to 6 have been discriminated. The pay of respondent No. 7 has also been fixed under FR 22 by awarding notional increments. The point-to-point fixation was also done under FR 22. It is not the case of respondent Nos. 1 to 6 that FR 22 has no application to their case. Further, it is not in dispute that point-to-point fixation has the sanction of law. In such view of the matter, we have no hesitation in holding that no pay anomaly is involved.

8. Further, the writ petitioners have already considered the very same issue and had taken a decision as early as on 22-12-2004. The said position was reiterated subsequently. An offer was also made to the respondent Nos. 1 to 6 by grant of personal pay to them to bring their pay on par with respondent No. 7, as per letter dated 30-08-2010. It is they who did not accept the offer of personal pay. The Tribunal has overlooked the above facts. It has not taken into consideration the procedure adopted by the writ petitioners in fixation of pay with reference to FR 22. Therefore, the order of the Tribunal is liable to be set aside and accordingly, the same is set aside.

9. In the result, the writ petition is allowed. No costs. The connected miscellaneous petition is closed.