

Union of India vs Ajithakumari a

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Court : Kerala

Decided On : May-27-2024

Judge : Honourable Mr. Justice Amit Rawal,Honourable Mr. Justice Easwaran S.

Appeal No. : OP (CAT)/70/2018

Appellant : Union of India

Respondent : Ajithakumari a

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MR. JUSTICE EASWARAN S. MONDAY, THE 27TH DAY OF MAY 2024 / 6TH JYAISHTA, 1946 AGAINST THE ORDER/JUDGMENT DATED 5.6.2017 IN OA NO.675 OF 2014 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH PETITIONERS/RESPONDENTS: 1 UNION OF INDIA REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,DEPARTMENT OF THE POST, GOVERNMENT OF INDIA,NEW DELHI- 110 001 2 THE CHIEF POSTMASTER GENERAL KERALA CIRCLE, TRIVANDRUM-695 033 3 THE SUPERINTENDENT OF POST OFFICE PATHANAMTHITTA POSTAL DIVISION, PATHANAMTHITTA-

689 645. BY ADV SRI.T.V.VINU, CGC RESPONDENT/APPLICANT:
AJITHAKUMARI A W/O. ANEESH P, GDS MAIL PACKER,ENATHU,
HAVING PERMANENT RESIDING AT
PADMATHEERTHAM,THAZHATHUVADAKKU. P.O ENATHU,
PATHANAMTHITTA DISTRICT-691 526. BY ADVS. SMT.ARYA
RAGHUNATH SRI.SAJITH KUMAR V. THIS OP (CAT) HAVING BEEN
FINALLY HEARD ON 27.05.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: AMIT RAWAL & EASWARAN S., JJ.
----- OP (CAT) No.70 of 2018
----- Dated this the 27th day of May, 2024

JUDGMENT

Easwaran, J.

The respondents in the Original Application before the Central Administrative Tribunal, Ernakulam Bench are the petitioners herein. The respondent/applicant approached the Central Administrative Tribunal aggrieved by the action of the 3rd petitioner in rejecting her request for enhancement of Time Related Continuity Allowance (in short TRCA). The applicant was regularly selected as Gramin Dak Sevak MP - Enathu SO with effect from 12.03.2012. The applicant was sanctioned with TRCA in lowest grade, considering the workload at 2 hours

and 57 minutes. On 25.7.2014, the applicant submitted a repr

04.09.2013 as per Annexure-A1 order which was impugned in the Original Application. The petitioners/respondents before the Central Administrative Tribunal, filed a reply statement, which is annexed as Ext.P2 in the Original Petition, contending that there was three slabs of TRCA. Later, it was found that there was an increase in the workload of the applicant and in the review, the period of workload was found to be 3 hours and 8 minutes and accordingly, the entitlement of the applicant to receive TRCA was revised with effect from 2015. The respondent/applicant filed a rejoinder controverting the contentions raised by the petitioners/respondents before the Central Administrative Tribunal.

2. On a consideration of the pleadings and materials on

record, the Central Administrative Tribunal, Ernakulam Bench found that the applicant was entitled for a higher rate of TRCA and ought to have been placed in the slab 2870-50-4370. Accordingly, the Tribunal allowed the Original Application and directed the petitioners to grant the claim from the date of the appointment of the applicant.

3. It is challenging the said order that the petitioners have approached this Court in a petition under Article 227 of the Constitution of India.

4. We have heard Sri.T.V.Vinu, learned Central Government Counsel appearing for the petitioners/respondents and Sri.V.Sajith Kumar, learned counsel appearing for the respondent/applicant.

5. Sri.T.V.Vinu, learned CGC appearing for the petitioners, submitted that the Tribunal erred in allowing the Original Application as prayed for by the applicant. He would contend that the applicant was sanctioned with lower TRCA, especially taking into consideration the workload of the applicant, which was fixed at 2 hours and 57 minutes as per the

review conducted by the Department. However, he fairly submitted that later, the workload was found to be increased and it was found that during the review conducted in 2015, there was an additional workload of 3 hours and 8 minutes. Therefore, it is submitted that the Tribunal erred in granting the reliefs prayed for in the Original Application from the date of the appointment, especially when the increase in the workload has been subsequently found only during 2015.

6. On a contrary, the learned counsel appearing for the

respondent/applicant, Sri.V.Sajith Kumar, submitted that the claim of the applicant has now been found to be justified, especially on the review being conducted by the Department and finding that there is an increase in the workload and the applicant is entitled to have the TRCA fixed in appropriate slab from the date of inception.

7. On a consideration of the submissions raised across

the bar, we find it is indisputable that the workload of the applicant before the Tribunal had increased and accordingly she was entitled to have her claim for TRCA fixed in appropriate slab. However, the only dispute before us is as to whether the said claim should be granted from the date of appointment of

the applicant or from a suitable later date. In the peculiar facts

and circumstances of the case, we find that though the claim of

the applicant was made on 25.7.2013, the petitioners/ respondents conducted the review only during the year 2015 and therefore, there is a delay of two years in accepting the claim of the applicant. Therefore, it would not be appropriate for this Court to accede to the contentions of the learned counsel for the petitioners and reject the claim of the applicant altogether. In view of the fact that the applicant had put up her claim for TRCA only on 25.7.2013, the Tribunal was not justified in granting the relief as prayed for in the Original Application, from the date of appointment of the applicant.

8. In view of the above discussion, Ext.P6 order of the Tribunal dated 5.6.2017 is modified as follows:

(a) The claim of the respondent/applicant for TRCA is allowed.

(b) However, we are not inclined to accept the claim of

the applicant for grant of TRCA from the date of her initial appointment. We thus limit the claim of the applicant for TRCA from the date of representation, namely 25.7.2013.

(c) The petitioners/respondents shall release the claim within a period of 30 days from the date of receipt of a certified copy of this judgment. The Original Petition is thus partly allowed. No order as to

costs. Sd/- AMIT RAWAL JUDGE Sd/- EASWARAN S. JUDGE jg APPENDIX OF OP (CAT) 70/2018 PETITIONER ANNEXURES ANNEXURE A1 TRUE COPY OF

ORDER NO. 1/72 DATED 04.09.2013 ISSUED BY THE 3RD RESPONDENT. ANNEXURE A2 TRUE COPY OF THE APPLICATION DATED 25.07.2014 SUBMITTED BY THE APPLICANT. ANNEXURE A3 TRUE COPY OF THE STATISTICAL DATA OF ENATHU RELEASED BY THE 3RD RESPONDENT BY LETTER DATED 06.08.2014. ANNEXURE A4 TRUE COPY OF THE REPRESENTATION DATED 25.07.2014 SUBMITTED BY THE APPLICANT BEFORE THE 3RD RESPONDENT ALONG WITH ENGLISH TRANSLATION. ANNEXURE R1 TRUE COPY OF LETTER NO.6-1/2009-PE.II DATED 09.10.2009. ANNEXURE R2 TRUE COPY OF LETTER NO.31-5/85-PE I DATED 04.10.1985. ANNEXURE R3 TRUE COPY OF THE LETTER NO. 6-1/2-9-PE-II DATED 09.10.2009. ANNEXURE R4 TRUE COPY OF THE LETTER DATED 29.10.1996 ISSUED BY THE 1ST RESPONDENT.

ANNEXURE MA-1 TRUE COPY OF THE STATISTICS FOR GDSMP, ENATHU. ANNEXURE MA-2 TRUE COPY OF THE CALCULATION SHEET OF THE

WORKLOAD OF THE APPLICANT. ANNEXURE MA-3 TRUE COPY OF THE MEMO NO. B-3/4(B)TFR/2017-18 DATED 18.05.2017. EXHIBIT P1 TRUE COPY OF THE OA NO. 180/00675/2014 DATED 25-08-2014 FILED BY THE APPLICANT. EXHIBIT P2 TRUE COPY OF THE REPLY STATEMENT DATED 10-11-2014, FILED BY THE PETITIONERS EXHIBIT P3 TRUE COPY OF THE REJOINDER DATED 29-12-2014, FILED BY THE RESPONDENT EXHIBIT P4 TRUE COPY OF THE ADDITIONAL REPLY STATEMENT DATED 21-05-2015, FILED BY THE PETITIONERS. EXHIBIT P5 TRUE COPY OF THE MISCELLANEOUS APPLICATION DATED 24-05-2017 FILED BY THE PETITIONERS TO ACCEPT ADDITIONAL DOCUMENTS EXHIBIT P6 TRUE COPY OF THE ORDER IN OA NO. 180/00675/2014 DATED 05-06-2017 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

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