

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00806/2018

Wednesday, this the 25th day of November, 2020.

CORAM:

**HON'BLE Mr. P. MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr. K.V. EAPEN, ADMINISTRATIVE MEMBER**

Suresh C., 57 years,
S/o. Lakshmikutty,
House No. 81, Sumanam,
V.V. Nagar, NCC Road, Peroorkada (P.O.),
Thiruvananthapuram – 05.
Supervisor, O/o. The Accountant General (E&RSA),
Kerala, Thiruvananthapuram.

- Applicant

[By Advocate : Mr. Alexander Joseph]

Versus

1. Union of India, represented by the Secretary to Government, Ministry of Finance, Central Secretariat, New Delhi – 110 001.
3. The Accountant General (E&RSA), Kerala, Thiruvananthapuram – 1.
4. The Accountant General (G&SSA), Kerala, Thiruvananthapuram – 1.
5. The Deputy Accountant General (A&RS), Office of the Accountant General (ERSA), Kerala, Thiruvananthapuram – 1.
6. The Deputy Accountant General (ES-I), O/o. The Accountant General (E&RSA), Kerala, Thiruvananthapuram – 1.
7. The Liaison Officer SC/ST Cell, Office of the Accountant General (E&RSA), Kerala, Thiruvananthapuram – 1.
8. The National Commission for Scheduled Tribes, Represented by its Secretary, 6th Floor, Lok Nayak Bhavan, New Delhi – 110 003.
9. The Deputy Comptroller & Auditor General, Office of the Comptroller & Auditor General of India, Pocket 9, Deendayal, Upadhyay Marg, New Delhi – 110 124. - Respondents (*R-2 deleted as per order dated 28.09.2018 & R-9 impleaded as per order dated 25.11.2020*).

[By Advocates : Mr. K.I. Mayankutty Mather for R-3 to 7
Mrs. P.K. Latha, ACGSC for R-1, 8 & 9]

The application having been heard on 25.11.2020, the Tribunal on the same day delivered the following:

O R D E R**Per: Mr. P. Madhavan, Judicial Member**

Applicant filed this O.A seeking the following reliefs:-

- i) To declare that the disciplinary proceedings initiated against the applicant as per Annexure A-11, A-16 and A-22 are malafide exercise of power without any basis and is liable to be set-aside.*
- ii) Issued appropriate order or direction setting aside all proceedings leading to and pursuant to Annexure A-11, A-16, A-20, A-22 and A-24.*
- iii) Issued appropriate order or direction directing the respondents 1 to 6 to refund salary of Rs. 95,683/- recovered from the salary of the applicant as per Annexures A-11, A-15, A-15(a), A-15(b), A-15-(c), A-15(d) and A-15(c).*

2. Applicant is presently working as Supervisor (Group B Non-gazetted) under the 3rd respondent. The applicant submitted application for commuted leave on medical ground for 38 days and it was allowed and he was paid leave salary. After 10 months, leave applications were rejected retrospectively, leave period was treated as unauthorised absence and leave salary of Rs. 95,683/- was recovered. Annexure A-16 charge sheet was issued and enquiry was ordered. Applicant contents that the recovery of Rs. 95,683/- is illegal and the applicant is entitled to get refund of the recovered salary. It was also submitted that enquiry was over and the Disciplinary Authority had imposed minor penalty dissenting to the finding of Inquiry Officer. He had also filed a Miscellaneous Application to implead Appellate Authority as Respondent No. 9 and it was allowed. He had filed an appeal against the order passed by the Disciplinary Authority.

3. Heard Mrs. P.K. Latha, learned ACGSC for respondent Nos. 1 & 8 and Mr. Vineeth Komalachandran representing Mr. K.I. Mayankutty Mather for respondent Nos. 3 to 7.

4. When the matter came up for hearing, learned counsel for the applicant submitted that his appeal before the Appellate Authority is still pending and he is going to retire in the May 2021. He submits that the applicant would be satisfied, if a direction is issued to the Appellate Authority to consider and

dispose of the appeal on merits before his retirement.

5. In view of the limited relief sought we deem it appropriate to direct Respondent No. 9 to consider the appeal produced in Annexure A-32 and A-34 dated 06.11.2020 on merits and dispose of the matter within two months from the date of receipt of a copy of this order. No order as to costs.

(Dated, 25th November, 2020.)

**(K.V. EAPEN)
ADMINISTRATIVE MEMBER**

**(P. MADHAVAN)
JUDICIAL MEMBER**

ax

Applicant's Annexures

Annexure A-1	-	True copy of the Circular dated 29.06.1988 of the 2 nd respondent.
Annexure A-2	-	True copy of the Note dated 18.01.2016 of the 5 th respondent.
Annexure A-3	-	True copy of the order dated 07.12.2015 of the Central Information Commission.
Annexure A-4	-	True copy of the letter dated 20.02.2017 of the 2 nd respondent to 3 rd respondent.
Annexure A-5	-	True copy of the Circular dated 28.04.2010 of the 2 nd respondent.
Annexure A-6	-	True copy of the Circular dated 22.12.2015 of the Senior Audit Officer of the 3 rd respondent.
Annexure A-7	-	True copy of the Memo dated 21.01.2016 of the Senior Audit Officer to the applicant.
Annexure A-8	-	True copy of the Minutes of the meeting held on 19.10.2015.
Annexure A-9	-	True copy of the Note dated 14.12.2015 of the applicant to the 5 th respondent.
Annexure A-10	-	True copy of the Note dated 11.03.2016 of the Senior Audit Officer.
Annexure A-11	-	True copy of the Note dated 11.09.2017 by the 5 th respondent.
Annexure A-12	-	True copy of the representation dated 16.09.2017 of the applicant to the 3 rd respondent.
Annexure A-13	-	True copy of the representation dated 26.02.2018 of the applicant to the 2 nd respondent.
Annexure A-14	-	True copy of the representation dated 30.09.2017 of the applicant to the 7 th respondent.
Annexure A-15	-	True copy of the pay slips of the applicant for the month of September 2017.
Annexure A-15(a)	-	True copy of the pay slips of the applicant for the month of October, 2017.
Annexure A-15(b)	-	True copy of the pay slips of the applicant for the month of November, 2017.
Annexure A-15(c)	-	True copy of the pay slips of the applicant for the month of December, 2017.

Annexure A-15(d) - True copy of the pay slips of the applicant for the month of January, 2018.

Annexure A-15(e) - True copy of the pay slips of the applicant for the month of February, 2018.

Annexure A-15(f) - True copy of the pay slips of the applicant for the month of March, 2018.

Annexure A-16 - True copy of the Charge sheet dated 06.07.2017 issued by the 3rd respondent to the applicant.

Annexure A-17 - True copy of the Circular No. 12 dated 05.07.2017 of the 3rd respondent.

Annexure A-18 - True copy of the Reply dated 15.09.2017 of the applicant to the Annexure A-16 Charge Memo.

Annexure A-19 - True copy of the representation dated 12.12.2017 of the applicant to the 3rd respondent.

Annexure A-20 - True copy of the order dated 09.04.2018 of the 3rd respondent.

Annexure A-21 - True copy of the Note dated 06.06.2018 of the Audit Officer enclosing Note dated 24.05.2018.

Annexure A-22 - True copy of the Memorandum of charges dated 31.07.2018 of the 3rd respondent.

Annexure A-23 - True copy of the Explanation/Reply dated 03.09.2018 of the applicant of Annexures A-22 charge memo.

Annexure A-24 - True copy of the order dated 13.9.2018 of the 3rd respondent.

Annexure A-25 - True copy of the notice dated 1.10.2018 issued by the enquiring authority under the 3rd respondent.

Annexure A-26 - True copy of the notice dated 5.8.2019 for further enquiry of the enquiry officer.

Annexure A-27 - True copy of the representation dated 16.8.2019 to the disciplinary authority.

Annexure A-28 - True copy of the enquiry proceedings held on 19.8.2019 of the enquiry officer.

Annexure A-29 - True copy of the Memorandum dated 10.9.2020 of the 6th respondent without enclosure.

Annexure A-30 - True copy of the Memorandum dated 04.9.2020 issued by the 5th respondent.

Annexure A-31 - True copy of the order dated 01.10.2020 issued by the 3rd respondent.

Annexure A-32 - True copy of the Appeal dated 06.11.2020 of the applicant before the Appellate Authority.

Annexure A-33 - True copy of the Order No. AuII/C.Cell/2-201/2020/16 dated 01.10.2020 of the 3rd respondent.

Annexure A-34 - True copy of the Appeal dated 06.11.2020 of the applicant before the appellate authority.

Annexures of Respondents

Annexure R-1(a) - True copy of the order F.No. 7-123/2019-NVS-(Estd.II)/1419 dated 06.09.2019.

Annexure R3(a) - Consolidated details of the applications filed by the applicant under the Right to Information Act, 2005.
