

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.435/99.

Tuesday this the 6th day of November 2001.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Joseph John,
Accounts Officer,
Works & Planning,
Office of the General Manager Telecom,
Trichur. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. Assistant Chief Accounts Officer (Est.),
Office of the General Manager,
Telecom District, Cannanore.
2. Chief General Manager, Telecom,
Kerala Telecom Circle Trivandrum.
3. Secretary to the Government of India,
Ministry of Personnel, Public Grievances
and Pensions, Department of Personnel and Training,
Government of India, New Delhi.
4. Union of India represented by its Secretary,
Ministry of Communications, New Delhi.
5. Bharat Sanchar Nigam Limited,
represented by its Chairman,
New Delhi. Respondents

(By Advocate Shri T.C.Krishna, ACGSC)

The application having been heard on 6th November 2001
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant while holding the post of Junior Accounts Officer (JAO for short) substantively, was promoted as Assistant Accounts Officer (AAO for short) on temporary and ad-hoc basis w.e.f. 1.7.96 by order dated 6.8.96 (A1).. While so, he was by order dated 12.7.96 temporarily promoted as Accounts Officer for a period of 90 days. After a technical

break of one day on 16.10.96 he was again promoted to officiate as A.O. for another 90 days from 17.10.96 by A-3 order dated 5.12.1996. By order dated 21.8.96, the pay of the applicant was fixed in the scale of Rs.2375-3500 in the post of A.O. at Rs.2375/- w.e.f. 18.7.96 (A4). The applicant was receiving pay accordingly. His present grievance is that by A-5 order his pay for the period between 18.7.96 and 15.10.96 has been reduced to Rs.6728/while according to him it ought to have been fixed at Rs.7500/-. Aggrieved by that the applicant has filed this application seeking to set aside A-5 order declaring that he is entitled to have his pay for the said period fixed at Rs.7500/- and challenging the Office memorandum of the Ministry of Personnel, Public Grievances and Pension dated 11.3.98 (A7) to the extent it empowers restriction of the officiating allowance at 15% per annum.

2. The respondents seek to justify the impugned order(A5) as having been made in accordance with the provisions contained in FR 35. Finding that the fixation by order dated 21.8.96 (A4) was not in order, shortly thereafter orders at Annexures R-3, R-4 and R-5 were issued re-fixing the pay of the applicant correctly. The fixation of pay contained in A-5, therefore, according to the respondents is perfectly in order and the applicant does not have a legitimate grievance. The respondents further contend that A-7 has been issued by the competent authority in its wisdom and there is no merit in its challenge.

3. We have perused the pleadings and materials placed on

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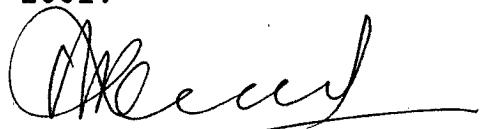
record and have also heard the learned counsel on either side. The applicant was promoted as A.O. in the scale of Rs.2375-3500 while he was holding the post of JAO substantively and AAO on ad-hoc basis. According to the provisions of FR 22 1(a) 1 his pay was to be fixed giving him one notional increment in the lower post substantively held by him. Then since the promotion is not a regular one in due turn, FR 35 empowers the Government to restrict the pay by granting the benefit of 15% of the basic pay. This was not noted at the time when A-4 order was issued. Shortly thereafter noticing the wrong fixation, Annexures R-3, R-4 and R-5 were issued in December 1996 and February 1997. Copies of these orders were served on the applicant. The applicant did not challenge them. We find that the fixation contained in A-5 is only in accordance with the provisions of FR 22 1(a)1 read with FR 35. We therefore, do not find any infirmity in the action.

4. In the light of what is stated above, the application is dismissed leaving the parties to bear their own costs.

Dated the 6th November 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: Copy of the memo No.ST-II/1-12/96/Local offg. dated 6.8.96 issued by the 2nd respondent.
2. Annexure A2: Copy of the memo No.ST.II/6-11/96 dated 12.7.96 issued by the 2nd respondent.
3. Annexure A3: Copy of the letter No.ST.II/6-11/96 dated 5.12.96 issued by the 2nd respondent.
4. Annexure A4: Copy of the Pay fixation Memo No.Q.2147/2 dgd. 21.8.96 issued by the 1st respondent.
5. Annexure A5: Copy of the statement of fixation of pay under Central Civil Service(Revised pay) Rule 1997 issued by the first respondent.
6. Annexure A6: Copy of the FR 35 issued by the 3rd respondent.
7. Annexure A7: True copy of the Office Memorandum No.2/8/97-Estt.(pay.II) dated 11.3.98 issued by the 3rd respondent.
8. Annexure A8: Copy of the Govt. of India GI.Dept. on Per & Trg. OM No.18/12/85-Estt(PG I) dtd.18.7.86 OM No.18/26/86/Estt(Pay.I) dtd.29.7.87.
9. Annexure A9: Copy of the representation dtd.15.5.98 to the 1st respondent.
10. Annexure A10: Copy of the representation dtd.18.11.98 submitted by the applicant to the 2nd respondent.

RESPONDENT'S ANNEXURE

1. Annexure R1: Copy of D.O.T. letter dated 31.8.95.
2. Annexure R2: Copy of the D.O.T. order dated 5.3.97.
3. Annexure R3: Copy of the order dated 10.12.96.
4. Annexure R4: Copy of the pay fixation memo dated 13.2.97.
5. Annexure R5: Copy of the order dated 30.12.96.

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