

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.468/2000

Wednesday this the 7th day of June, 2000

CORAM

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

1. Aby K.Varghese, Senior Accountant
Office of the Deputy Director of
Accounts (Postal),
Thiruvananthapuram.
2. K.Radhakrishnan .do.
3. Mrs.P.Radha .do.
4. C.K.Rajendran .do.
5. Mrs.A.N.Sobhanayamma .do.
6. M.R.Dinesan .do.

(By Advocate Mr. Sasidharan Chempazhanthiyil (rep.)

Vs.

1. Deputy Director of Accounts (Postal)
G.P.O. Thiruvananthapuram.
2. Director General, Postal Department,
New Delhi.
3. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.
4. Secretary, Ministry of Finance,
Government of India, New Delhi.
5. Anandavally Ammal, Assistant Accounts Office,
Office of the Deputy Director of Accounts,
(Postal), Thiruvananthapuram.
6. P.P. Kochukunjan, Assistant Accounts Officer,
Office of the Deputy Director of Accounts,
(Postal), Thiruvananthapuram.
7. Elcie Chacko, Assistant Accounts Officer,
Office of the Deputy Director of Accounts,
(Postal), Thiruvananthapuram.
8. K.R.Narayanan, Assistant Accounts Officer,
Office of the Deputy Director of Accounts,
(Postal), Thiruvananthapuram.
9. P.Nandakumar, Assistant Accounts Officer,
Office of the Deputy Director of Accounts,
(Postal), Thiruvananthapuram. .. Respondents

(By Advocate Mr.K. Kesavankutty (for R.1 to 4)

The application having been heard on 7.6.2000, the Tribunal on the same day delivered the following:

O R D E R

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


The applicants six in number are Senior Accountants in the Postal Department who have passed the qualifying examination for Junior Accounts Officer in the year 1990 and 1991. Since then they are awaiting promotion as Junior Accounts Officers. Apart from the applicants there are 68 others who have passed the examination and are waiting. The channel of promotion is from Senior Accountants to Junior Accounts Officer, from Jr.Accounts Officer to Assistant Accounts Officer and from Assistant Accounts Officer to Accounts Officer. Upto the level of Assistant Accounts Officer it is a circle cadre. Accounts Officer is an all India cadre. According to the applicants as the second respondent has been continuously and repeatedly granting permission to Assistant Account Officers to decline promotion as Accounts Officers as they would have to move outside the State of Kerala the chances of Senior Accountants to be promoted as Junior Accounts Officers and Junior Accounts Officers to be promoted as Assistant Accounts Officers are getting depleted. The action on the part of the respondents in repeatedly granting such permission is arbitrary and irrational, according to the applicants. It is the case of the applicants that taking hint from the order issued by the C.A.G. in regard to making acceptance of promotion mandatory, the second respondent should have issued similar instructions and the

inaction in that regard amounts to arbitrariness, resulting in denial of opportunity to those who are awaiting promotion, submit the applicants. It has also been alleged that as per the CAG's order Auditors and Accountants in IA & AG who had passed the qualifying examination and awaiting for promotion are entitled to special pay which is also not available to the applicants and similar others. Projecting these grievances the first applicant has made a representation to the second respondent which as per the directions of the Tribunal in O.A.1150/99 was considered and the impugned order A5 has been issued turning down the claim made by the first applicant. Aggrieved by that with the allegations as aforesaid the applicants have filed this application for the following reliefs:

(a) Call for the records and quash Annexure.A5.

(b) Declare that grant of permission to decline promotion as Accounts Officers to Assistant Accounts Officers under the 1st respondent repeatedly having regard to the facts and circumstances of the case, is illegal and direct the 2nd respondent to take action accordingly.

(c) Direct the respondents 3 and 4 to consider the grant of special pay to the JAO examination passed candidates awaiting promotion and as obtaining in other departments under the Government of India.



(d) Direct not to grant any further permission to the respondents 5 to 9 to decline promotion as Accounts Officers having regard to the adverse impact on the promotion chances of the applicants.

(e) Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice. and

(f) to award the costs of these proceedings.

We have carefully gone through the application and the annexures appended thereto and have heard Shri Vishnu, learned counsel for the applicant and Shri K.Kesavankutty, Additional Central Govt. Standing Counsel appearing for the official respondents. We note that repeated refusal to accept promotion by the Assistant Accounts Officers have created a heart burn in the minds of the Senior Accountants as they are being denied the chances of promotion; but we find that the heart-burn does not confer on them a legitimate cause of action. The authority vested with competence to accept the request of an official to decline promotion considering the background of the request and administrative exigency takes a decision to accede, judicial intervention cannot be justified unless the decision is vitiated by malafides or total arbitrariness. Such orders are routine administrative orders and it is not for the Tribunal to tell the competent authority that such

requests should not be granted. Therefore, we do not find a legitimate cause of action for the applicant calling for adjudication.

The application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No order as to costs. We make it clear that the rejection of this application will not preclude the government from taking appropriate decision in the matter.

Dated the 7th day of June, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of annexure referred to:

Annexure.A5: True copy of the letter
No.303/(17)/99-PA Adm.III/1258
dated 16.12.1999 sent by 2nd
respondent.

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