

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.521/2002.

Tuesday this the 17th day of August 2004.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

K.V.George, S/o Varghese,
employed as Junior Engineer (Electrical),
in the Office of Executive Engineer (Electrical),
Cochin Central Electrical Division, Central
Public Works Department, Cochin.
residing at 2/62 B, East Hill,
Near Kendriya Vidhyalaya-1, Calicut-637 010.

(By Advocate Shri Asok M.Cherian)

Vs.

1. The Union of India, represented by the Secretary to the Ministry of Urban Development, (Works Division), New Delhi.
2. The Director General (Works), Central Public Works Department, Nirman Bhavan, New Delhi.
3. Executive Engineer (Electrical), Cochin Central Electrical Division, Central Public Works Department, Kochi-16.
4. Pay & Accounts Officer, SZ, Central Public Works Department, Chennai. Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 17.8.2004, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant working as Junior Engineer (Electrical) in the Central Public Works Department commenced his service as Junior Engineer on 5.6.1981. On completion of 5 years of service in the entry grade the applicant was placed in the scale of Rs.1640-2900 from June 1986. As he was not promoted as Assistant Engineer in the scale Rs.2000-3500 owing to non-availability of

vacancy in that grade the applicant was awarded the scale of pay of Assistant Engineer at Rs.2000-3500 on a personal basis on completion of 15 years of total service as Junior Engineer w.e.f. 13.7.1996. As the scale of pay Rs.1640-2900 of Junior Engineer was revised to Rs.5500-9000 w.e.f. 1.1.96, the applicant's pay as Junior Engineer was fixed at Rs.6725/- with effect from that date with DNI on 1.7.1996. The next increment fell due on 1.7.1996 which having been granted the pay of the applicant was fixed at Rs.6900/-. As the applicant was granted the pay scale of Assistant Engineer with effect from 13.7.96, by A-3 proposal the applicant's pay was fixed at Rs.7300/- by Annexure A-3 and A-4. The grievance of the applicant is that long after the fixation of pay of the applicant by A-3 and A-4 while he was receiving the pay at the scales so fixed, the impugned order A-1 has been issued on 26.4.2002 on the basis of an objection raised by the Audit, the applicant's pay as on 13.7.1996 was refixed at Rs.7100/-, w.e.f.1.7.97 at Rs.7300/-, w.e.f.1.7.98 at Rs.7500/-, w.e.f.1.7.99 at Rs.7700/-, w.e.f.1.7.2000 at Rs.7900/- and w.e.f.1.7.2001 at Rs.8100/- with the date of next increment as 1.7.2002. The applicant was by Annexure A-2 order dated 15.6.2002 informed that the pay of the applicant would be refixed and excess payment would be recovered in 36 easy instalments commencing from the month of June 2002 onwards. Aggrieved by that the applicant has filed this O.A. seeking to set aside A-1 and A-2 for a direction to the respondents to pay salary of the applicant as fixed in A-3 and A-4 and not to recover amounts from the salary of the applicant towards the alleged over payment. It has been alleged in the application that the fixation of pay in

the case of the applicant as seen in A-3 and A-4 was proper, that there was no need for re-fixation and if at all any mistake has been committed, the applicant having been not responsible for that and he should not be made to suffer.

2. The respondents seek to justify the impugned action. They contend that while the applicant's pay as on 1.1.96 had been fixed at Rs.6,900/- in the pay scale of Junior Engineer on personal promotion to the scale of Assistant Engineer instead of fixing the pay as on 13.7.96 at Rs.7,100/-, by mistake a recalculation as on 1.1.96 was made and this resulted in the error of fixing his pay at Rs.7,300/-, which has got to be rectified to avoid loss to the Government. As the action was taken to rectify a fiscal error, no notice is called for and that no injustice has been done to the applicant, contend the respondents.

3. When the matter came up before the Bench, Shri Asok M Cherian, learned counsel appeared for the applicant and Shri C.Rajenran, SCGSC appeared for the respondents.

4. We have gone through the pleadings and material placed on record and heard the learned counsel on both sides. We are satisfied that, what has been done by the impugned orders is only for rectification of a mistake saving loss to the public exchequer which is a duty of the competent authority. No injustice has been done to the applicant and the pay of the applicant has been correctly fixed by the impugned order rectifying a fiscal error. Not giving a notice cannot be said

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to be violation of the principles of natural justice. Since the error is so obvious which was required to be corrected and the applicant has not been put to any undue hardship. The applicant is not on the verge of retirement and the amount to be recovered is not a huge amount compared to the left over service of the applicant. The proposed recovery is in easy instalments of 36 months. We are of the considered view that under the circumstances judicial intervention in this matter is not called for.

5. In the result, the application fails and the same is dismissed leaving the parties to bear their own costs.

Dated the 17th August, 2004.

H. P. Das

ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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