

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.6/03

Monday this the 2nd day of June 2003.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

T.G. Vasudevan Nair, aged 58 years,
S/o. Govindan Nair,
Foreman, Naval Institute of Aeronautical Technology,
Naval base, Kochi, residing at:
No. 35, 1382, Chakkingal Road
Palarivattom, Kochi - 25. Applicant

(By Advocate Shri. T.C.Govindaswamy)

Vs.

1. Union of India, represented by
the Secretary to Government of India,
Ministry of Defence, New Delhi.
2. The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Naval base, Kochi.
3. The Commanding Officer,
INS Garuda, Kochi - 4
4. The Logistics Officer,
INS Garuda, Naval Base,
Kochi - 4.
5. The Administrative Officer,
Naval Institute of Aeronautical Technology,
Naval Base, Kochi - 4. Respondents

(By Advocate Shri.C.Rajendran,SCGSC)

The application having been heard on 2nd June, 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. AV.HARIDASAN, VICE CHAIRMAN

1. The sole question that comes up for a decision in this case is, whether the 4th and 5th respondents have any authority to compel the applicant to have a bank account and to receive his monthly salary only through a Bank.


2. The material facts of the case are as follows : The applicant, working as Foreman, Naval Institute of Aeronautical Technology, Naval Base, Kochi gave his willingness to receive his salary through Dena Bank and was receiving his salary through that Bank. Finding that probably on account of non-remittance of money in Bank on the due date, there was a delay in the applicant's getting his salary from the Bank, the applicant closed his account in the Dena Bank and requested payment of his salary in cash. On the basis of his representation made on 3.10.02 his salary for the month of October was paid in cash on 31.10.02. However, the 4th and 5th respondents issued a memorandum to the applicant directing him to open a bank account and indicate the name of the Bank and account number for crediting his pay. The applicant not willing to receive the salary through Bank which according to him is not convenient did not comply with such a direction, with the result the respondents paid only the salary of the applicant for the month of November, 2002 but refused to disburse his pay for the month of December, 2002. Under these circumstances, the applicant has filed this application for a declaration that the action of the respondents in compelling the applicant to receive his salary through Bank is totally arbitrary, discriminatory and unconstitutional and for a direction to the respondents to release the applicant's monthly salary and other allowances in cash along with other employees in the same organisation month after month. When the application came up for hearing on admission on 3.1.03 the respondents were directed to disburse the salary of the applicant for the



month of December 2002 within three days and to pay the applicant's salary in cash until further orders.

3. The respondents in the reply statement contend that in terms of the minutes of the meeting held in the office of the ACOP(Civ) at 15 hours on 26.11.99 it was resolved to make payment of salaries to civilian officers and supervisory staff through cheques/electronic media, that Headquarter, Southern Naval Command, Cochin, issued an order dt.12.1.01 (Annexure R-2) deciding to implement the system of disbursement of pay and allowances through bank to civilian officers and supervisory staff and in pursuance thereto, the applicant gave his willingness to receive salary through bank, that he was receiving it through Bank and his refusal to receive salary through Bank is without any just cause. The respondents contend that the application lacks merits and the same is to be dismissed.

4. On a careful scrutiny of the facts brought out in the pleadings and on consideration of the legal points involved emerging from the arguments of the learned counsel on either side, we fail to find that there is any statutory rule or administrative instruction having the force of the rule by which a supervisory staff can be compelled to receive his pay only through bank. Even according to the R-2 willingness was to be obtained before switching over to payment of salary through bank. It is not indicated in R-2 that willingness once given is final and cannot be recalled. Further, R-2 is not an administrative instruction or order which has got



force of a rule. Again, it is not a Government Order but issued only by Headquarter, Southern naval Command. The applicant has alleged in the rejoinder that many supervisory staff whose names are given are receiving salary by cash and not willing to receive it through Bank, while the employee is entitled to receive salary in cash unless there is a binding order disentitling him to receive the pay in cash the administration cannot insist that the employee should receive pay only through Bank.

5. Under these circumstances we find that the action on the part of the respondents in insisting that the applicant should receive his salary only through Bank is unsustainable because it is not supported by any rule or binding administrative instruction. In the result, the application is allowed. The respondents are directed to pay to the applicant his monthly salary in cash on the due dates.

6. There is no order as to costs.

Dated the 2nd day of June, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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