

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 607/98

Wednesday the 12th day of August 1998.

CORAM

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

K. Aravindakshan Pillai
S/o S.K.Panikar
"Karunam", Kumaramputhur P.O.
Mannarkkadu, Palakkad Dist.

...Applicant

(By advocate Mr P.Gopinath)

Versus

1. Union of India represented by its Secretary, Ministry of Finance New Delhi.
2. Accountant General (Audit) Office of the Accountant General (Audit) Kerala Thiruvananthapuram.
3. Comptroller & Auditor General of India New Delhi. ...Respondents.

(By advocate Mr Mathews J Nedumpara)

Application having been heard on 12th August 1998, the Tribunal on the same day delivered the following:

ORDER

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

The Comptroller & Auditor General of India had on 10th August 1961 issued an order granting certain incentives for Class III staff of the I.A. & A.E. for acquiring higher or additional professional qualifications, according to which, those who passed the intermediate examination of the I.C.W.A. were to receive a lumpsum incentive of Rs. 200/- and those who passed the final examinations were to receive two advance increments. This incentive was enhanced by order dated 7th September 1987 (Annexure A-2) by which two advance increments were granted to those who passed the intermediate examination and six advance increments were given to those who passed the final examination.

While this system was continuing, the Comptroller & Auditor General issued in January 1996 an order by which the award of six increments for those who passed the final exams was replaced by an amount of Rs. 10,000/- and the two advance increments for passing the intermediate examination was replaced by a lumpsum incentive of Rs. 4000/-. After this Annexure A-4 order was issued, the applicant working as Assistant Audit Officer in the office of the Accountant General (Audit) Kerala, the second respondent, passed the I.C.W.A. examination in June 1996. Seeking the benefits of six advance increments, the applicant made a representation (Annexure A-5) dated 18.6.97 in which he had stated that believing that he would be granted six advance increments on the basis of A-1 & A-2, he made preparation for the examination and passed it in June 1996 and, therefore, he may be granted six advance increments. In response to the representation, the applicant was told by impugned order (Annexure A-6) dated 4.7.97 that as those who passed the exam after 31.1.95 would not be entitled to get 6 increments, but are only entitled to get a lumpsum payment, his request for 6 advance increments could not be acceded to. Aggrieved by A-4 & A-6, the applicant has filed this application. The ground on which the applicant seeks to have the impugned orders set aside is that as the applicant had prepared for the examinations believing that he would get six advance increments as was given to those who qualified the I.C.W.A. examination in terms of A-1 & A-2, denying the benefits all of a sudden amounts to denial of reasonable

expectation and would be barred by the principle of 'promissory estoppel'.

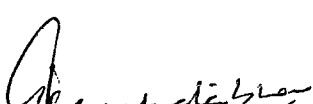
2. We have heard at length the learned counsel of the applicant as also the Additional Central Govt. Standing Counsel for the respondents. Learned counsel of the applicant invited our attention to three rulings of the Apex Court to canvass for the position that the principle of promissory estoppel would come into play in this case and, therefore, the impugned orders are liable to be set aside. The first ruling, the learned counsel referred to, was rendered in DCM Ltd & Anr. Vs. UOI & Anr. 1996 5 SCC 468. The facts and circumstances of the case are totally different from the facts and circumstances of the case on hand. Though it has been observed in the judgement cited that the principle of promissory estoppel is attracted even to government orders, it has been clearly stated that the principle would be attracted when equity demands. The principle was not applied in the case on hand as the facts did not attract the application of the principle. The learned counsel next referred to the decision in Surya Narayana Yadav & ors. Vs. Bihar State Electricity Board 1985 3 SCC 38. In that case where trainees under the Electricity Board were promised absorption and ultimately when the Electricity Board did not honour the promise, the court held that on the basis of the principle of promissory estoppel, the action of the Electricity Board was wrong. It was felt that the facts of the case deserved the application of the principle of promissory estoppel on grounds of

equity. Similarly, in Bhimsingh & ors. Vs. State of Haryana, 1981 2 SCC 673 where certain employees were moved to another department on the basis of certain incentives, denial of the promised incentives held was bad and hit by the principle of promissory estoppel on grounds of equity. It can be seen that in all these cases under citation, representation was made and on the basis of which the parties acted and, therefore, it was held that in equity, the principle should be applied. The facts and circumstances of the case on hand is not like that. The applicant appeared for the I.C.W.A. examination and passed it in the month of June 1996 while in January 1996 itself, the Comptroller & Auditor General had issued order A-4 wherein it was stated that the scheme for grant of six advance increments for those who passed the I.C.W.A. examination had been replaced by a lumpsum amount of Rs. 10,000/- for those who could pass the examination after 31.1.1995. In the case on hand, the applicant had passed the examination only after A-4 order was issued. To grant incentives and to decide what should be the incentives etc. are matters of policy which lies in the realm of the executive.

3. We are of the considered view that in the facts and circumstances of the case, the principle of promissory estoppel does not apply.

In the result, the application fails and is dismissed in limine.

Dated 12th August 1998.


(P.V. VENKATAKRISHNAN)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

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