

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.72/94

Monday, this the 1st day of August, 1994.

CORAM:

HON'BLE SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

HON'BLE SHRI P SURYAPRAKASAM, JUDICIAL MEMBER

N Velayudhan Thampi,
S/o late PK Rama Varma Raja,
Aged 59 years, Retired S.P.M.
Venmany, Sreesadhanam,
East Fort, Mavelikara.

- Applicant

By Advocate Mr MR Rajendran Nair

Vs.

1. The Superintendent of Post Offices,
Mavelikara.
 2. The Chief Post Master General,
Kerala Circle,
Trivandrum.
 3. The Deputy Director,
Postal(Accounts),
Trivandrum.
 4. Union of India represented by
Secretary to Government,
Department of Posts,
New Delhi.
- Respondents

By Advocate Mr S Krishnamoorthy, ACGSC

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S KASIPANDIAN, ADMINISTRATIVE MEMBER

The applicant in the present case had come before
this Tribunal earlier in O.A-1599/92. The operative
portion of the judgement in O.A-1599/92 was:

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"Before correctly fixing the pension dues payable to the applicant, it is not proper for the respondents to issue these impugned orders alleging over payment. It is also to be noted that no prior notice has been issued to the applicant before passing the impugned orders. Hence, these orders are violative of the principles of natural justice and unsustainable. Accordingly, I set aside these orders and allow the application. This will not stand in the way of the respondents in correctly fixing the pensionary benefits and taking action in accordance with law for realising any amount due to the Department on the basis of correct fixation. The fixation of the pensionary benefits shall be made in accordance with law within a period of four months from the date of receipt of a copy of this judgement."

2. Learned counsel for the respondents mentioned that in pursuance of this judgement, they had issued show cause notice to the applicant as in Annexure-V. He therefore contends that the direction of the Tribunal given in the judgement has been implemented.

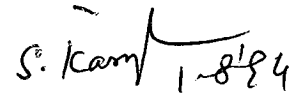
3. Learned counsel for the applicant argued that in the show cause notice, it is mentioned that the pay fixation was wrong since the pay drawn in Army Postal Service cannot be taken into account for pay fixation in civil post. The applicant is challenging this very ground. But he was not given any opportunity to prove that the proposed revision of pay already fixed is not in accordance with law. Respondents have failed to give show cause notice to the applicant for revision of his pay. They have skipped this procedure and straight away issued show cause notice for recovery of the supposed excess payment on the basis of the revised pay.

4. After having heard the learned counsel on both sides, we feel that it would be appropriate to direct the respondents to give a show cause notice to the applicant in the first instance mentioning the ground on which they are proposing to re-fix the pay already fixed on 1.10.1991. They may take a final decision on this point, after hearing the objections from the applicant, if any, and then only they can proceed to fix the pensionary benefits and order recovery, if it is found necessary. The case is therefore remanded back to the respondents for following due procedure before re-fixing the pay before they proceed to calculate the pensionary benefits. This may be done within a period of three months from the date of receipt of a copy of this order. For the reasons above stated, the impugned order Annexure-I re-fixing the pension amount is quashed. The respondents, may however, issue a fresh recovery order, if found necessary, after completing all the formalities before re-fixation of pay and pension as explained above and in accordance with law.

5. The application is allowed as above. No costs.

Monday, this the 1st day of August, 1994.


(P SURYAPRAKASAM)
JUDICIAL MEMBER


(S KASIPANDIAN)
ADMINISTRATIVE MEMBER

LIST OF ANNEXURES

1. Annexure I - True copy of the Order No.C-4/1992/MVK dated 6.12.1993 issued by 1st respondent to the applicant.
2. Annexure V- True copy of the Memo No.C4/1992/MVK dated 11.10.1993 issued by 1st respondent to the applicant.

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