

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.70 of 2013

&

Original Application No.75 of 2013

Friday this the 11th day of April 2014

C O R A M :

**HON'BLE Mr.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Ms.MINNIE MATHEW, ADMINISTRATIVE MEMBER**

Original Application No.70 of 2013

P.J.Thomas,
S/o.P.T.Joseph,
Retired Postal Assistant,
Poothole, Thrissur – 680 004.
Residing at B 2/10, P&T Quarters,
Poothole, Thrissur – 680 004.

...Applicant

(By Advocate Mr.Shafik.M.A)

V e r s u s

1. Union of India,
represented by the Director General Posts,
New Delhi – 110 001.
2. The Postmaster General,
Central Region, Cochin – 682 018.
3. The Senior Superintendent of Post Offices,
Thrissur Division, Thrissur – 680 001.
4. Sr. Accounts Officer (Pension),
O/o.the Director of Accounts (Postal),
Kerala Circle, Trivandrum – 695 001.

...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

Original Application No.76 of 2013

P.Raphael,
S/o.Paulose,
Sub Postmaster,
Enkakadu, Thrissur – 680 004.
Residing at Kundukulangara House,
M.C.P.O., Mulamkunnathukavu, Thrissur – 680 596.

...Applicant

(By Advocate Mr.Shafik.M.A)

Versus

1. Union of India,
represented by the Director General Posts,
New Delhi – 110 001.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Thrissur Division, Thrissur – 680 001. ...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

These applications having been heard on 11th April 2014 this Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

These two Original Applications are being disposed of by this common order since the issues involved in them are identical.

2. The applicant in Original Application No.70 of 2013 retired from service on superannuation on November 30, 2012 while he was working as Postal Assistant. He has filed this Original Application seeking to quash Annexure A-1 order issued by Respondent No.4 to the extent it directs to recover a sum of Rs.1,45,627/- out of the retirement gratuity payable to him. According to the respondents, the said sum of Rs.1,45,627/- was paid to the applicant towards pay and allowances in excess of what was actually payable to him.

3. The applicant had joined the Postal Department as a Group D employee on January 19, 1979. He had participated in the departmental selection processes held simultaneously for promotion to the post of Postman as well as Postal Assistant for the vacancies of the year 1981.

3.

It appears that the result in respect of the Postman cadre was published earlier and the applicant was consequently promoted as Postman. The result of Postal Assistant was published a little later and the applicant got selected to the above post also. Applicant had understandably accepted the latter promotion, and he continued as Postal Assistant till his retirement on November 30, 2012. In the meanwhile, the applicant was granted Biennial Cadre Review promotion as well as Time Bound One Promotion as could be seen from Annexure A-4 and Annexure A-5 respectively.

4. According to the respondents, applicant had received two promotions, namely, one from the cadre of Group D to Postman and other from the cadre of Postman to Postal Assistant. In addition to the above, he had also received the benefits under the Biennial Cadre Review as well as Time Bound One Promotion. Thus it is contended by the respondents that the applicant was not entitled to get benefits under the Biennial Cadre Review since Modified Assured Career Progression which came into vogue later, envisaged only three upgradations, namely, on completion of 10, 20 and 30 years. It is in the above circumstances that the respondents had issued Annexure A-1 order deducting Rs.1,45,627/-, which according to them was paid in excess towards pay and allowances. Consequently the pension of the applicant was also reduced on the basis of the reduced pay that was reckoned on the strength of Annexure A-1 order.

5. We have carefully perused the materials available on record and heard learned counsel for the parties on both sides.

.4.

6. It may at once be noticed that the applicant had worked in the grade of Postman for hardly eight months by which time he had got promotion to the cadre of Postal Assistant. He had opted for the latter promotion since it was more beneficial to him. Therefore, by no stretch of imagination can it be said that the applicant had got promotion to the cadre of Postal Assistant while working as Postman. In other words, the contention that he had obtained two promotions cannot be countenanced at all. In that view of the matter, we have no hesitation to hold that the recovery of Rs.1,45,627/- made from the retirement gratuity of the applicant is wholly unsustainable. Accordingly, Annexure A-1 order to the extent it directed recovery of the said sum is quashed. Respondents shall restore the pay and allowances as they originally stood at the time of his retirement and pension shall be fixed accordingly. The amount recovered shall be reimbursed to the applicant within two months from the date of receipt of a copy of this order. If the amount is not released as directed above, respondents shall pay interest at the rate of 9% from the date of recovery till the date of payment.

7. In Original Application No.75 of 2013 the applicant had joined service on the same date as the other applicant in Original Application No.70 of 2013 as a Group D employee. He had also participated in the selection processes to the post of Postman as well as Postal Assistant along with the other applicant. He had also qualified for both the posts, but accepted the post of Postal Assistant. Applicant retired from service on November 30, 2013 during the pendency of this Original Application. In this case Annexure A-1 order proposing to withdraw the Biennial Cadre Review is under challenge.

.5.

8. When this Original Application came up for consideration on February 12, 2013 an interim order was passed staying all further action pursuant to Annexure A-1 order. However, later it was brought to our notice that the respondents had effected recovery from his Death cum Retirement Gratuity as proposed under Annexure A-1 and had reduced his pension also. When Contempt Proceedings were initiated against the respondents in Contempt Petition (Civil) No.4 of 2014, the respondents retreated their steps and reimbursed the amount of Rs.1,94,061/- to the applicant and issued fresh Pension Payment Order. In other words, the proposed recovery as indicated in Annexure A-1 was withdrawn. Learned counsel submits that thereafter a fresh Pension Payment Order has been issued in favour of the applicant granting the actual amount payable to him, therefore, the Original Application has become infructuous.

9. The Original Applications are disposed of in the above terms.

(Dated this the 11th day of April 2014)

MINNIE MATHEW
ADMINISTRATIVE MEMBER

JUSTICE A.K. BASHEER
JUDICIAL MEMBER

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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

C.P/180/00004/2014

Friday, this the 14th day of February , 2014

CORAM:

**HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

P.Raphael
Sub Postmaster
Enkakadu (retired), Thrissur – 680 004
Residing at Kundukulnagara House
MCPO, Mulamkunnathukavu, Thrissur – 680 596 ... Petitioner

(By Advocate Mr.Shafik M.A)

versus

1. Mrs.Santhy S Nair
 Chief Postmaster General
 Kerala Circle, Trivandrum

2. Mr.K.G.Balakrishnan
 Senior Superintendent of Post Offices
 Thrissur Division, Thrissur – 680 001 ... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 14.02.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

When this Contempt Petition is taken up for consideration, it is fairly conceded by learned counsel for the petitioner that the respondents have already undone what they had done in violation of the interim order passed by this Tribunal in the above case. The orders passed by the Respondents in this regard have been placed on record.

2. In that view of the matter, the Contempt Petition is closed.

Dated, the 14th February, 2014


**K GEORGE JOSEPH
ADMINISTRATIVE MEMBER**

VS


**JUSTICE A.K.BASHEER
JUDICIAL MEMBER**