

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.119/97

Thursday, this the 27th day of August, 1998.

CORAM

HON'BLE MR P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

1. T.N. Sankaranarayana Iyer,
(Retired Senior Audit Officer),
T.C. 40/83, Gandharva Bhavan,
First Puthen Street, Manacaud P.O.,
Trivandrum - 695 009.
2. N.V. Ramakrishna Iyer,
(Retired Senior Audit Officer),
T.C. 11/2135, Janaki Mandir,
C-17, Kanaka Nagar,
Trivandrum - 695003.

...Applicants

By Advocate Mr N. Sukumaran.

Vs.

1. Union of India represented
by the Secretary to Ministry of Finance,
New Delhi.
2. Controller and Auditor General of India,
New Delhi - 110 002.
3. Accountant General (Audit),
P.B. No: 5608,
Trivandrum - 695 039.

...Respondents

By Advocate Mr Govindh K. Bharathan, Sr.CGSC.

The application having been heard on 27.8.98, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants who are Retired Audit Officers submit that their junior one Shri A. Gopalan has been drawing higher salary with effect from 1.1.1988. They contend they are entitled to have their pay fixed at Rs.3300/- as on 1.1.1988, which is the date on which the pay of Shri A. Gopalan who was promoted as Audit Officer on 3.8.87 was fixed. They

represented in this behalf to the authorities concerned, but their requests were rejected by order A-VIII and A-XIII, though the benefit had been granted to five other seniors. Applicants challenge these orders and pray that their pay may be re-fixed in the cadre of Audit Officers at Rs. 3300/- on 1.1.1988 with consequential benefits, and for a direction to the respondents to pay arrears of salary and difference in pension with interest at the rate of 18% per annum.

2. Respondents submit that the applicants while working as Upper Division Clerks in the Office of the Accountant General, Kerala, were promoted as Superintendents with effect from 23.5.1966. In 1974, the said post was re-designated as Section Officer. Applicants were thereafter promoted as Audit Officers with effect from 1.9.1979 and 29.5.1980 respectively. They were later transferred to the Office of the Senior Deputy Accountant General (Administration) as Audit Officer with effect from 1.3.1984 consequent on restructuring of Indian Audit and Accounts Department. Their junior Shri A. Gopalan was promoted as Audit Officer with effect from 3.8.1987 and his pay in the grade of Rs.2375 - 3500 was fixed at Rs.3300/- with effect from 1.1.1988 under F.R. 22 C. The pay of the applicants was stepped up with effect from 1.5.85 with reference to the first junior Shri T.V. Thomas and accordingly, they were not entitled for stepping up of pay with reference to the next junior, Shri A. Gopalan, in accordance with the Government of India order 24 below FR 22. The applicants submitted representations to rectify the anomaly in the cadre of Section Officer with reference to their junior Shri A. Gopalan with effect from 30.11.1975. The pay of both the applicants had been stepped up with reference to the pay of Shri A. Gopalan with effect from 30.11.1975.

Under Order 24 under FR 22, stepping up of pay will be allowed only once with reference to the pay of the first junior, and not with reference to the second junior. The second stepping up of pay on par with the first junior is admissible only, if the pay of such first junior gets stepped up. The pay of the applicants was stepped up with reference to the pay of the first junior Shri T.V. Thomas. Though the first junior was drawing less pay than the second junior Shri A. Gopalan, the anomaly could not be rectified as the first junior had drawn less pay than the second junior in the lower cadre and thereby one of the conditions for stepping up of pay was not satisfied. As regards the other seniors to whom stepping up of pay was granted, Shri A. Gopalan was the first junior to three of them and the other two were senior to Smt. Aleyamma Abraham whose pay was stepped up with reference to Shri A. Gopalan. Here the pay of Shri T.V. Thomas cannot be stepped up to that of Shri A. Gopalan.

3. The applicants pray for stepping up of their pay with reference to Shri A. Gopalan. Shri A. Gopalan is not the first junior of the applicants and the pay of the applicants had already been stepped up with reference to their first junior Shri T.V. Thomas. Therefore, the applicants are not entitled to stepping up of pay on par with that of Shri A. Gopalan in terms of Order 24 under FR 22. Applicants have another case in terms of Note 7 below Rule 7 of the CCS (Revised Pay) Rules, 1986. That stepping up of pay cannot be granted since one of the conditions under Rule 7 for such stepping up of pay is that both the senior and junior have to belong to the same cadre. In this application, the applicants were promoted as Audit Officers from the cadre of Section Officer whereas, Shri A. Gopalan

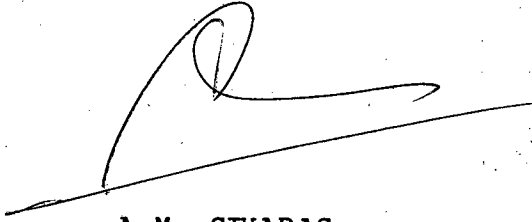
was promoted as Audit Officer from the cadre of Assistant Audit Officer. Since the senior and junior belong to different cadres, Note 7 below Rule 7 of the CCS (Revised Pay) Rules, 1986 will not have any application. Applicants contend that the junior Shri A. Gopalan came from a different cadre only because of restructuring and that when the applicants were promoted there was no intermediary position from which they could be promoted as Audit Officers. But the past history of the cadre would not be of any assistance, since the position that prevailed when the promotion of the junior took place and which promotion caused the anomaly is the only relevant factor. The anomaly due to the creation of intermediate posts has already been rectified and applicants have been given the benefit due to them under AXVI orders. As on 3.8.1987 when Shri A. Gopalan was promoted, restructuring had already come into force, and the applicants had been promoted from the cadre of Section Officer, whereas Shri A. Gopalan was promoted as Audit Officer from the different cadre of Assistant Audit Officer which arose after the restructuring and that too after another earlier promotion from Selection Grade Section Officer to Assistant Audit Officer. The contention of the applicants that they also would have obtained the Assistant Audit Officer/Selection Grade Section Officer post had they not been promoted before the reorganisation and introduction of Assistant Audit Officer's post is only a hypothetical conjecture and stepping up of pay is not permissible on such conjecture as to what might have happened if past events had taken place differently.

4. Since the applicants do not satisfy the conditions required to be satisfied for stepping up of pay in terms of both FR 22, Order 24, and in terms of Note 7 below Rule

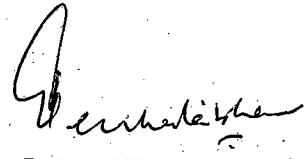
7 of the CCS (Revised Pay) Rules, 1986, we are unable to grant the relief sought.

5. Original Application is dismissed. No costs.

Dated the 27th of August, 1998.



A.M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

P-28898

LIST OF ANNEXURES

1. Annexure A-VIII: True copy of the order of the 3rd respondent dated 18.12.1996 bearing No.DE(Bills) I/Aud/I/18-148/178, addressed to the 1st applicant.
2. Annexure A-XIII: True copy of the order of the 3rd respondent dated 15.10.1996 bearing No.DE(Bills) I/Aud/I/18-168/154, addressed to the 2nd applicant.
3. Annexure A-XVI: True copy of the order of the 2nd Respondent dated 26.7.1985 bearing No.2096-GE.11/ADM-84 issued to A11 Accountants General(Auditor) and A11 Directors of Audit.

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