

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 147 of 1996

Tuesday, this the 8th day of April, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. M.K. Rajagopalan,
S/o Marath Krishnankutty Master,
Edamuttom Beach Road PO, Thrissur (Dt)
Retired Junior Accountant,
Zonal Accounts Office,
Central Board of Direct Taxes, Cochin. .. Applicant

By Advocate Mr. Ranjith Thampan

Versus

1. The Secretary,
Ministry of Finance, Department of Expenditure,
C.G.A. 7th Floor, Lok Nayak Bhavan,
New Delhi.

2. The Principal Chief Controller Accounts,
Central Board of Direct Taxes (CBDT),
Loknayak Bhavan, New Delhi-3

3. The Accounts Officer,
Zonal Accounts Office,
Central Board for Direct Taxes (CBDT), Cochin.

4. The Secretary, Ministry of Personnel,
Department of Administrative Reforms (Pension
and Pensioners Welfare) 3rd Floor,
L.N. Bhavan, Khan Market, New Delhi-3 .. Respondents

By Advocate Mr. TR Ramachandran Nair, ACGSC

The application having been heard on 8th April 1997,
the Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to direct the respondents 1 to 3 to
sanction the increments due to him from 1989 onwards in the light
of A-2 order, to refix the pension and gratuity payable to him
in view of the increments to which he is entitled, and also to
disburse the arrears of pay, allowances, pension and gratuity
due to him.

contd...2.

2. The applicant was initially appointed as Lower Division Clerk in the 'Dandakaranya' Project under the Rehabilitation Department of the Government of India in the year 1962, in the scale of pay of Rs.110-180. In the year 1976, he was promoted as Upper Division Clerk. He was confirmed as Upper Division Clerk on 13.12.1984 in the scale of pay of Rs.260-400 with effect from 1982. In the year 1987, when the 'Dandakaranya' Project was wound up, the applicant became a surplus staff. He was absorbed through the Surplus Staff Cell in the Central Board of Direct Taxes. He was re-deployed from 31.3.1987 to the Central Board of Direct Taxes, as per A-1. He joined duty on 8.4.1987 in the scale of pay of Rs. 1200-30-1560-EB-40-2040. From 1989 onwards he did not receive the increment. He was made to understand that since the applicant has reached the pay of Rs.1560/- he will not be given further increments unless he passes the confirmatory examination. He came to know that as per A-2 persons like the applicant need not pass the departmental examination for earning Efficiency Bar. Though he repeatedly made representations as per A-3 and A-4, nothing has turned out. He retired from service on superannuation in October, 1995.

3. The respondents state that the applicant was not allowed to cross Efficiency Bar because the Departmental Promotion Committee constituted by the 2nd respondent did not find him fit to cross the Efficiency Bar at the stage of Rs.1560/-, that the same was communicated to the applicant, that he refused to accept the communication, and that the contentions raised in A-3 and A-4 are not correct.

4. Learned counsel appearing for the applicant submitted that the R-1 order was not communicated to him and the applicant

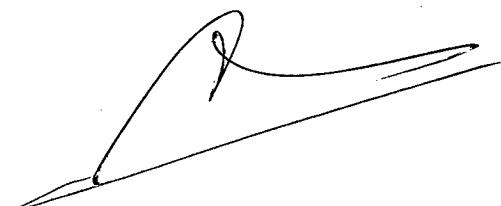
came to know of the same only when it was produced along with the reply statement, though it is contended by the respondents that the applicant was served with the copy of the same and he refused to accept. There is no material to show that copy of R-1 was served on the applicant and he refused to accept the same. The applicant cannot produce a negative proof that he was not served with a copy of R-1. That being the position, it is to be taken that the applicant became aware of R-1 only when it was produced along with the reply statement.

5. Since it is open to the applicant to submit representation before the 1st respondent against R-1 order, it is not necessary at this stage to go into the merits of the OA and it is suffice to permit the applicant to submit representation to the 1st respondent stating all his objections against R-1 order.

6. Accordingly, the applicant is permitted to submit a representation to the 1st respondent with reference to his grievance against R-1 within a period of two weeks from today. If such a representation is received, the 1st respondent shall consider the same and dispose of by a speaking order within three months from the date of receipt of the same.

7. Original Application is disposed of as aforesaid. No costs.

Dated the 8th of April, 1997



A.M. SIVADAS
JUDICIAL MEMBER