

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 150/91
XXXXXX

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31-1-1991

DATE OF DECISION

R Somanath Kurup _____ Applicant (s)

Mr PS Biju _____ Advocate for the Applicant (s)

Versus

The Central Provident Fund _____ Respondent (s)
Commissioner, Bhavishyanidhi Bhavan,
New Delhi and others.

Mr NN Sugunapalan, SCGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member.

The Hon'ble Mr. A.V.Haridasam, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement? ✗
4. To be circulated to all Benches of the Tribunal? ✗

JUDGEMENT

Mr NV Krishnan, A.M

This is an application seeking a direction to the Respondents 2 & 3 (the Regional Provident Fund Commissioner, Trivandrum and Ernakulam respectively) not to implement the Annexure A1 penalty order passed in a Departmental Enquiry case against the applicant by the 2nd respondent on 7.9.90, till the Annexure A2 appeal is disposed of by Respondent-1.

2 Briefly, the case is that against the Annexure A1 penalty order, the applicant submitted an appeal to the Central Provident Fund Commissioner, Respondent-1, on 29.1.90 (Annexure A2) through proper channel. Pending this, he submitted a representation (Annexure A4) dated 26.10.90 to the 2nd respondent, through proper channel, requesting that the penalty imposed may be kept in abeyance till the appeal is disposed of.

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3 By Annexure A5, the 3rd respondent forwarded the Annexure A4 representation to the 2nd respondent, also intimating him that as per the latter's oral advice, the implementation of the punishment from the pay for October, 90 has been postponed.

4 Subsequently, by the Annexure A6/^{impugned} order dated 3.1.91, the 2nd respondent revoked the postponement of penalty communicated in Annexure A5 letter and directed that the penalty already imposed be implemented with effect from the due date, namely 1.10.90. Against this order, this application has been filed with the prayers as indicated above.

5 The application has been admitted. Pending clarification by the respondents in respect of the impugned Annexure A6 order which was to be given to-day, the Annexure A6 order has also been directed to be kept in abeyance.

6 We have heard the counsel of both the parties. We also felt that this is a case which can be disposed of without waiting for a detailed reply from the respondents and there was no objection on either side to this decision.

7 We are of the view that when the applicant has already filed Annexure A2 appeal, the correct procedure is that he should have also filed an application to the Appellate Authority requesting that pending the disposal of the appeal, the implementation of the penalty order may be kept in abeyance. In this view of the matter, this original application can be disposed of with proper directions to the 1st respondent.

8 Therefore, while disposing of this application we issue the following directions:

(i) The applicant shall submit, within a period from to-day of two weeks, an application addressed to the 1st respondent

through proper channel ~~to today~~, seeking a stay of the penalty order (Annexure A1), pending disposal of the Annexure A2 appeal, which has already been sent by him through proper channel.

(ii) In case such an application is received by the 3rd respondent, he shall transmit the same, without delay, to the 2nd respondent, who in turn shall similarly transmit it to 1st respondent alongwith the Annexure A2 appeal, if not already transmitted.

(iii) The Respondent-1 is directed to consider the application for staying of the penalty order and pass such orders, in accordance with law, as he may find suitable.

(iv) Till the 1st respondent considers such an application and communicates his final order to the 3rd respondent ~~XXXXXX~~ for communication to the applicant, the implementation of Annexure A1 penalty order shall remain stayed.

(v) The implementation or otherwise of the Annexure-2 order will depend on the order to be passed by the 1st respondent on the application to be submitted now by the applicant.

9. The application is disposed of with the above directions.



(AV Haridasan)
Judicial Member



31.1.91
(NV Krishnan)
Administrative Member

31-1-1991