

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 159 of 1996

Friday, this the 11th day of April, 1997

CORAM

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

1. V.V. Ashokan,  
Assistant Engineer (Electrical),  
Central Electrical Sub Division,  
Central Public Works Department, Thrissur-20  
Residing at: Vellankeri House,  
PO Nattika Beach, Trisoor-680572 .. Applicant

By Advocate Mr. PV Madhavan Nambiar

Versus

1. Executive Engineer, Electrical,  
Central Electrical Division,  
Central Public Works Department,  
Coimbatore. .. Respondent

By ADvocate Mr. TR Ramachandran Nair, ACGSC

The application having been heard on 11-4-1997, the  
Tribunal on the same day delivered the folowing:

O R D E R

The applicant seeks to quash A5 and A6, to restrain the  
respondent from reducing the salary of the applicant in pursuance  
of A5 and to direct the respondent to fix the salary and issue  
a salary certificate fixing the salary with effect from 1.1.1996  
at Rs.2975/-, and also to declare that the benefit of pay fixation  
on promotion of the applicant as Junior Engineer Grade-I under  
FR 22(c) now FR 22(1)(a)(i) has been correctly made.

2. The applicant joined as Section Officer in the Central  
Public Works Department. This post has been re-designated as  
Junior Engineer in 1970 in the pay scale of Rs.180-380. He joined  
in service on 9.8.1966. The applicant was on deputation to the  
National Building Construction Corporation, New Delhi and was  
working as Assistant Engineer (Electrical and Mechanical) therein.

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His salary on his return from deputation was fixed in the grade of Rs.1640-2900. Before that the applicant was given promotion from 1.1.1986 as Junior Engineer Grade-I (Electrical) in the scale of Rs.1640-2900. He was further promoted as Assistant Engineer (Electrical) as per order dated 18.11.1987. As on 1.1.1988 his pay as Junior Engineer(E) Grade-I was fixed at Rs.2240/- invoking FR 22(c) as per orders issued by the Chief Engineer (Electrical) as a step for fixing his salary in the Assistant Engineer's grade. Consequently, his salary in the Assistant Engineer's grade was fixed on as the same date invoking FR 22(c) at Rs.2450/- per month. He was later transferred to the Madras Circle. The respondent issued periodical increment certificates to him and by order dated 20.1.1995 (A3) the applicant's pay for the year 1995 was fixed at Rs.2900/- The respondent has now issued orders reducing the salary of the applicant and refixing it by reducing one stage and fixing his salary as on 1.1.1995 at Rs.2825 as per order dated 10.1.1996 (A5). Another order as a consequence of A5 was also issued on 22.1.1996 showing the future pay from 1.1.1996 of the applicant (A6).

3. Respondent says that as per letter dated 22.11.1995 (R1) the pay of the applicant was revised.

4. From R1 dated 22.11.1995 it is clearly seen that the pay of the applicant has been reduced by one stage and fixed accordingly as per instructions from the Deputy Controller of Accounts, Internal Audit, Madras.

5. Then the question to be considered is whether on the basis of the instructions from the Deputy Controller of Accounts, Internal Audit the pay of the applicant can be reduced retrospectively. This matter was dealt with by a Full Bench

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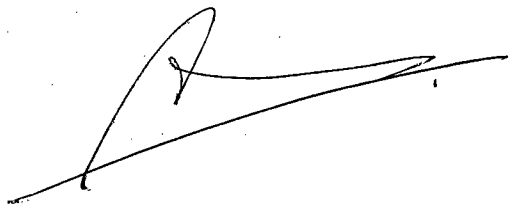
of this Tribunal (OA No. 737/1996 - Ernakulam Bench) wherein it has been held that:

"we are of opinion that the role of an auditor is advisory in character. He has to tender advice with professional expertise and that is what is expected of him. He is to record his observations, his professional view; he is not to act as a decision maker. His role does not go beyond that. Such professional advice must be considered in all earnestness by the decision making authority, and the decision making authority has to make his decision guided by the counsel of the internal auditor, and not by his command. That is the position in law."

Viewed in the light of the Full Bench ruling, A5 and A6 are only to be quashed.

6. Accordingly, the Original Application is allowed, quashing A5 and A6, restraining the respondent from reducing the salary of the applicant in pursuance of A5, directing the respondent to fix the salary and issue a salary certificate fixing the salary of the applicant with effect from 1.1.1996 according to the rules ignoring A5 and A6, and declaring that the benefit of pay fixation on promotion of the applicant as Junior Engineer Grade-I under FR 22(c), now FR 22(1)(a)(i), has been correctly made. No costs.

Dated the 11th of April, 1997



A.M. SIVADAS  
JUDICIAL MEMBER

LIST OF ANNEXURES

1. Annexure A3: True copy of Periodical Increment Certificate issued by the respondent to the applicant.
2. Annexure A5: True copy of Order No.F.No.3(18)/95/CCED/CB/5583 dated 10.1.1996 issued by the respondent to the applicant.
3. Annexure A6: True copy of Order No.9/1/96/CB/5822 dated 20.1.1996 by the respondent to the applicant.
4. Annexure R1: True copy of the letter No.55(1) 95/MCEC/E1/4135 dated 22.11.1995 issued by the Superintending Engineer(E), Central Public Works Department, Madras-6.

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