

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF JUDGMENT: 3.1.90

PRESENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 159/89

Shri P. M. Unni

Applicant

Vs.

1. Flag Officer Commanding-in Chief,  
Southern Naval Command, Cochin-4

2. Commanding Officer, INS Garuda,  
Cochin-4

Respondents

M/s. M. C. Sen & A. V. M. Salahuddeen Counsel for the  
app-licant

Mr. T. P. M. Ibrahimkhan, ACGSC

Counsel for the  
respondents

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The limited prayer of the applicant in this case  
rejects the applicant's request for protection of his pay  
is to set aside Annexure A, which contains an extract

from INS HANSA Letter CS 2103/43 dated 21.12.1988 which  
reads as follows:

" On examination of the case it is seen that the  
above individual was appointed as Stenographer(SG)  
in the scale of pay of Rs. 425-640 while he was  
serving with INS HANSA, Dabolim, Goa only for a  
specific period with effect from 17 Jul 77 to  
15 Nov 77. In this connection extract of HGA  
CEO PT II 54/79 dated 20 Nov. 79 filed in the  
service documents refers."

2. The applicants was originally appointed as LDC  
in INS HANSA GOA on 10.10.1964. He was subsequently  
redesignated as Stenographer w.e.f. 1.1.1973. While

working at Goa he submitted an application for transfer to Cochin on compassionate grounds which was approved by the respondents and his name was struck off from the cadre strength of INS HANSA w.e.f. 15.11.1977. After his transfer to Cochin as per letter/referred to dated 20.11.79 at Goa in Annexure-A, the applicant was appointed/as Stenographer (S.G.) in the scale of pay of Rs. 425-640 for a limited period from 17.7.1977 to 15.11.77 with retrospective effect.

3. The applicant submitted Annexure-B representation stating that since he had been appointed as Stenographer (S.G.) w.e.f. 17.7.1977 with retrospective effect, he is entitled to revised pay and that may be fixed. He also requested that his selection grade status may be allowed to continue in INS Garuda also. Annexure-C is also similar representation sent by the applicant. The applicant was given Annexure-D rejecting his request as early as on 28th May, 1983 stating that the appointment to Selection grade is based on seniority-cum-fitness and he cannot be appointed to the post merely because he was given a retrospective promotion at Goa. But he again submitted Annexure-E representation to the first respondent, which has been rejected by the impugned order Annexure-A.

4. The relief claimed by the applicant cannot be granted in view of the facts stated in Annexure-D which is not challenged in this case. Merely because

he was promoted notionally for a limited period to the post of Stenographer (SG) at Goa as he was the <sup>next claimant there.</sup> he is not entitled to fixation of emoluments of the higher post from the date of his joining at Cochin. He came to Cochin on 16.11.1977 <sup>on compassionate ground</sup> and joined in the post of Stenographer as juniormost and he is not entitled to be promoted as Stenographer (SG) overlooking the rights of his seniors at Cochin.

5. The applicant has also not brought to our notice any rules making it obligatory on the part of the respondents to continue him in the selection grade post even after his transfer to Cochin. ~~xxxxxxxxxxxxxxxxxxxx~~ On the other hand the respondents have specifically stated that the seniority of the employee transferred on compassionate ground from an earlier post will be reckoned only from the date of reporting for duty to the new Unit at Cochin in INS Garuda on 16.11.1977. Therefore, he was eligible for seniority in Stenographer Grade III from that date.


5. It is true that the Government of India as per letter Annexure R-1(a) sanctioned the creation of selection grade post of Stenographers in the scale of pay of Rs. 425-640 in the Navy effective from 1.8.1976 and allotted five selection grade posts of Stenographers to the Southern Naval Command, Cochin and one post to Goa as per Annexure R-1(b).

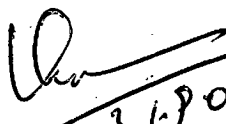
Since these allotted posts were to be granted to the seniormost and eligible Stenographer Grade III and that the applicant was not the seniormost eligible candidate, he could not be posted as Stenographer (SG) at Cochin. But he was posted in that post <sup>at Goa</sup> notionally, while working at Cochin, for a limited period from 17.7.1977 to 15.11.1977 as per Annexure R-1(c). His pay was also fixed for the period and all the arrears were paid to him. This is evident from Annexure R-1(d). The respondents also submitted that the representations submitted by the applicant were disposed of intimating him that the selection grade granted to the applicant was only for a limited period from 17.7.1977 to 15.11.1977 when the selection grade post was available at Goa and he was the seniormost in that place. If he returns to Goa he <sup>perhaps</sup> can/continue in the selection grade. Only because of his request for posting at Cochin, he cannot be given the selection grade post and at present he is not eligible to be appointed in that post at Cochin because of his bottom seniority. However, he may get a posting to the selection grade at Cochin when his turn according to the seniority arrives. Under these circumstances, he has no scope of any grievance at present and his application is devoid of any merits.

6. Considering the facts and circumstances of the case we see there is no substance in this

application and it is only to be dismissed.

7. In the result, we dismiss this application but without any order as to costs.

  
(N. Dharmadan) 3.1.90  
Judicial Member

  
(N. V. Krishnan)  
Administrative Member

kmm