

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.17/98

Tuesday, this the 26th day of September, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V.Pachinathan,
Deputy Director,
Department of Light House and Light Ships,
Cochin-20. - Applicants

By Advocate Mr MR Rajendran Nair

VS

1. Union of India represented by
the Secretary to Government of India,
Ministry of Surface Transport,
Transport Bhavan,
New Delhi.

2. The Director General of
Light Houses and Light Ships,
New Delhi. - Respondents

By Advocate Mr MHJ David J, ACGSC

The application having been heard on 26.9.2000, the Tribunal on the same day delivered the following:

O R D E R

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

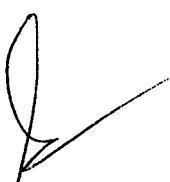
Applicant seeks to quash A-9 and A-10, to declare that his pay on appointment as Assistant Executive Engineer(Civil) is liable to be fixed at Rs.820/- or at least at Rs.780/- and to direct the respondents to fix his pay accordingly with arrears.

2. Applicant was appointed as Junior Engineer with effect from 24.11.78. In the year 1979 he was appointed as Assistant



Engineer, Iron and Manganese Ore Mines, Panaji on a pay of Rs.650/- per month. While working so, he was sanctioned increment and his pay was raised to Rs.740/- per month with effect from 1st January, 1982. While so he was appointed as Assistant Estate Officer in the Corporation of Industrial Finance with effect from 2.8.82 on a basic pay of Rs.860/- per month. In the year 1982 on the recommendation of the U.P.S.C., a temporary post of Assistant Executive Engineer(Civil) was offered to him on an initial pay to be fixed at Rs.740/- per month or according to rules in the scale of pay of Rs.700-1300 whichever is higher. Thereafter he was appointed as Assistant Executive Engineer(Civil) in the department of Light Houses and Lightships. He submitted representation to the second respondent pointing out that he was working as Assistant Estate Officer in the Industrial Finance Corporation of India in the pay scale of Rs.860-1800 requesting for pay protection as he was drawing a basic pay of Rs.860/-. His representation stands rejected as per A-9 and A-10.

3. Respondents resist the O.A. contending that the applicant was appointed as Junior Engineer in the substantive capacity in the Department of Light Houses and Lightships. He was selected for appointment to the post of Assistant Engineer in Iron and Manganese Ore Mines, Panaji, a Public Sector unit as a direct recruit with effect from 25.1.79. While so he was again selected to the post of Assistant Estate Officer in the Industrial Finance Corporation on deputation. While working in that post, he was recommended by the U.P.S.C. for appointment



for a temporary post of Assistant Executive Engineer in the Department of Light Houses and Lightships in the scale of pay of Rs.700-1300. He continued to hold his lien in the department in the substantive post of Junior Engineer while he was holding ex-cadre post in both the organisations. Since the applicant continued to hold lien in the post of Junior Engineer in the Department of Light Houses and Lightships, his pay in the department as per rules was required to be fixed with reference to his substantive appointment in the department only at Rs.740/- as recommended by the U.P.S.C. He was appointed with the initial pay of Rs.740/-. There is no ground to fix the pay with reference to his pay drawn by him in the ex-cadre post on deputation basis.

4. The admitted facts are that the applicant joined as Junior Engineer in the Department of Light Houses and Lightships. While so he was appointed as Assistant Engineer, Iron and Manganese Ore, Panaji. While working in that capacity, he was appointed as Assistant Estate Officer in the Industrial Finance Corporation. While working in that capacity, as per recommendations of the U.P.S.C., he was temporarily appointed as Assistant Executive Engineer and his pay was fixed at Rs.740/- per month.

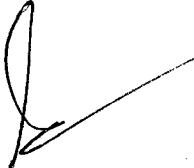
5. The learned counsel appearing for the applicant relying on FR-22-C, vehemently argued that the fixation of pay at Rs.740/- per month is not correct and his pay should have been fixed considering the pay drawn by him while he was working as

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Assistant Engineer since the order of appointment says that the applicant is offered temporary post of Assistant Executive Engineer on an initial pay to be fixed with one advance increment i.e. Rs.740/- p.m. or according to rules in the scale of Rs.700-40-900-EB-40-1100-50-1300, whichever is higher. So the question to be looked into is whether FR-22-C is attracted or not. FR-22-C says that:

"Notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued..."

So it is clear that FR-22-C is attracted only where a Government servant holding a substantive, temporary or officiating is promoted or appointed to another post carrying higher duties and responsibilities. The applicant was directly appointed as admitted by him, to the temporary post of Assistant Executive Engineer. At that time he was admittedly working as Assistant Estate Officer in the Industrial Finance Corporation. While he was working as Assistant Engineer in



Iron and Manganese Ore Mines, Panaji and as Assistant Estate Officer in the Industrial Finance Corporation, he was holding a lien as Junior Engineer in his parent department. So as a Government servant he was a Junior Engineer. It is on that basis the respondents have fixed his pay at Rs.740/-. The contention of the applicant that in the light of FR-22-C, the applicant's pay should be fixed taking into consideration the pay he was drawing as Assistant Engineer while working in the Iron and Manganese Ore Mines cannot be accepted.

6. A-10 is an order issued to the applicant's wife. It is not known under what right the applicant is challenging the same.

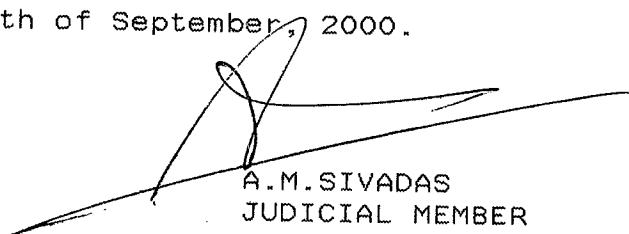
7. The challenge of the applicant as far as A-9 is concerned is in respect of his fixation of pay. We do not find anything wrong on the part of the respondents in having fixed the pay of the applicant at Rs.740/-.

8. Accordingly the O.A. is dismissed. No costs.

Dated, the 26th of September, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. M. SIVADAS
JUDICIAL MEMBER

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-9: True copy of the order No.8/1/83-Admn.II dated 14.11.97 issued by the second respondent.
2. A-10: True copy of the order No.8/1/83-Admn.II dated 18.11.97 issued by the second respondent.