

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 178 of 1997.

Wednesday this the 7th day of October, 1998.

CORAM:

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

P.T.N. Shajeevan,
Lower Division Clerk,
Naval Air Craft Yard,
Naval Base, Cochin-4.

.. Applicant

(By Advocate Shri V.B. Unniraj)

Vs.

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

2. Naval Local Audit Officer,
Naval Base, Cochin-4.

3. Commodore Superintendent,
Naval Aircraft Yard, Cochin-4.

.. Respondents

(By Advocate Shri Govindh K. Bharathan, SCGSC)

The application having been heard on 7th October, 1998,
the Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to quash A-6 order dated 17.1.96
and to direct the respondents to grant him Cashier allowance
for thirty seven months.

2. The applicant was working as Lower Division Clerk (LDC for
short) under the first respondent. While he was working as
LDC at Naval Air Craft Yard, Cochin, a requisition was given
by the 3rd respondent for appointment of a Clerk to the Yard
for performing the duties of Cashier as per A-1. He was appointed
to carry out the duties of Cashier with effect from 1.4.92 in
addition to other jobs allocated as per A-2. He also furnished
security as directed by the respondents. He says that as
Cashier, working in Naval Air Craft Yard, Cochin as per O.M.
No. 6/31/86-Estt(Pay-II) dated 29.9.86, he is entitled to a
special pay of Rs.125/- per month and the same is denied to him.

3. The respondents in the reply statement filed have
contended that the 2nd respondent did not accept the proposal
for sanctioning the special pay of Rs.125/- per month to the

applicant on the ground that this particular unit/establishment does not fulfil the conditions contained in R.1(A), that though the applicant was discharging the duties of Cashier from the 1st of April, 1992, security was furnished only on 29.10.92, that the unit where the applicant is working is not a self accounting unit, and that the applicant is not entitled to special pay as per the provisions contained in R.1(A).

4. The applicant relies on R-1(A) for the purpose of claiming special pay @Rs.125/- per month. Respondents are also relying on R-1(A) to deny the claim of the applicant. According to the respondents, the unit wherein the applicant is working is not an independent accounting unit and therefore, the applicant is not entitled to the special pay of Rs.125/- per month. That is the reason stated in A-6 impugned order for denying the special pay to the applicant. In R-1(A) conditions under which a LDC posted to perform the duties of Cashier is entitled to a special pay are enumerated. Seven conditions are there. None of these conditions would go even by implication to arrive at a conclusion that only the incumbents working as Cashiers in the units which are independent accounting units are entitled to special pay. Para 7 of R-1(A) says that "Any relaxation of the terms and conditions of R-1(A) will require the prior concurrence of the Department of Personnel & Training." In fact, there is no relaxation in this case but there is only tightening of the provisions contained in R-1(A). If relaxation can be done only with prior concurrence of the Department of Personnel & Training, tightening of the terms and conditions can also be done only with the concurrence of the Department of Personnel & Training. There is no case for the respondents that the Department of Personnel & Training has issued any direction to the effect that an incumbent working as Cashier in an accounting unit which is not an independent unit, is not entitled to special pay.

5. It is also stated in the reply statement that the 2nd respondent has taken the decision not to grant special pay to the applicant based on the clarification given by the Controller of Defence Accounts (Navy), Mumbai, who is the Financial Advisor to the Navy and Controller of Defence Accounts (Navy) Mumbai clarified that for grant of special pay to the individual from the units/establishments the units should satisfy the pre-requisite of being a self accounting unit for drawal or disbursement of cash. The clarification alleged to give by the Controller of Defence Accounts(Navy), Mumbai is not made available. If there is a clarification issued by the Controller of Defence Accounts (Navy), Mumbai, as stated in the reply statement, it can only be said that such clarification is not in tune with the provisions contained in R-1. An authority competent to give a clarification while giving a clarification should be guided by reason and not by humour.

6. From R-1(A) which is relied on by both sides, it is clearly seen that the special pay is to be granted from the date of issue of orders of appointment as Cashier or from the date of furnishing the security bond whichever is later. The applicant though appointed as Cashier as per A-2 with effect from 1.4.1992, the respondents have stated in the reply statement that the applicant furnished the security only on 29.10.92. The learned counsel appearing for the applicant submitted that the applicant furnished the security only on 29.10.92 and in the light of R-1(A) the applicant is entitled to special pay only from the date of furnishing security.

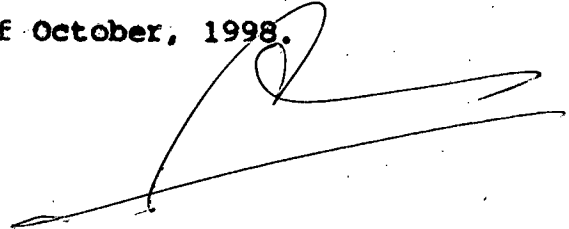
7. For the reasons already stated, A-6 is liable to be quashed.

8. Accordingly, A-6 order dated 17.1.96 is quashed and the respondents are directed to pay the applicant the special pay

@ Rs.125/- per month granted to Cashiers as per R-1, from 29.10.92 till 16.6.95. Respondents shall comply with this direction within three months from the date of receipt of a copy of this order.

9. Original Application is disposed of as above. No costs.

Dated this the 7th day of October, 1998.



A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES

1. Annexure A1: True copy of the request numbered on O.S. No.266/6/1 dated 23.11.1990 issued by the 3rd respondent to the 1st respondent.
2. Annexure A2: True copy of the Order No.275/6/4 dated 1.4.1992 issued by the Lieutenant Commander Manager (Admn) for Captain Superintendent to the applicant.
3. Annexure A6: True copy of the Order No.275/6/4 dated 17.1.1996 issued by the 3rd respondent's Office to the applicant.
4. Annexure R-1(A): True copy of the Office Memorandum No.6/31/86-Estt(Pay-II) dated 29th September. 1986 of the Ministry of Personnel, Public Grievances (Department of Personnel & Training)

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