

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 207/97

Friday, this the 24th day of September, 1999.

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HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER  
HON'BLE MR J.L. NEGI, ADMINISTRATIVE MEMBER

A. Adhikaranathaiar,  
Senior Accountant,  
Office of the Accountant General (A&E) Kerala,  
Thiruvananthapuram.

...Applicant

By Advocate Mr M. Rajasekharan Nayar.

Vs.

1. The Government of India,  
Department of Personnel, Public Grievances  
and Pensions, New Delhi. rep.by the  
Secretary to Government of India.
2. The Comptroller and Auditor General of India,  
New Delhi.
3. The Accountant General (A & E) Kerala,  
Thiruvananthapuram.

...Respondents

By Advocate Mr Mathews J. Nedumpara, ACGSC.

The application having been heard on 24.9.99,  
the Tribunal on the same day delivered the following:

O R D E R

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

Applicant seeks the following reliefs:

(i) An order directing the 3rd respondent for conferring promotion benefits with scales of pay in the selection grade post of Auditor to the applicant as applicable from time to time, with effect from 1979 in view of 14 years seniority after taking account of 11 years equivalent military service and crossing 3/4th the span of the time scale in the grade of Auditor.

(ii) A direction to quash the Annexure A7 order and an order directing the 3rd respondent to promote the applicant consequent on the first relief as a beneficiary to the monetary benefits

thereof and having 31 years of long service in IAAD with a reservation benefits of 10% for promotion in Group 'C' service/post in the office of 3rd respondent in the scale of Rs.1640-60-2600-EB-75-2900 as provided under Supervisor (Accounts) Recruitment Rules, 1986 effecting from the date of Tribunal's order.


(iii) An order if any, for relaxing the qualification necessary for promotion as Supervisor (Accounts), deemed necessary, he also be allowed, as the applicant is eligible for such relaxation also under the Govt. of India orders at Annexure A4.

(iv) An order directing the 3rd respondent to fix the pay on Selection Grade Auditor scale with effect from 1979 and allow annual increments applicable thereon in various scale of pay by way of revisions."

2. A reply has been filed by the respondents attempting to justify the impugned order by stating reasons which are not contained in the impugned order (A7). It is needless to say that an order rejecting request of the incumbent should necessarily contain reasons for the rejection. The authority concerned cannot keep the incumbent concerned in dark as regards the grounds on which the request has been rejected. Non mentioning of the grounds in the order also prevents the Tribunal from knowing the grounds for rejection and testing the legality of the order.

3. A7 impugned order reads thus:

"With reference to his representation dated 22.5.96 regarding promotion to the cadre of Supervisors Shri A. Adhikaranathaiar, Sr. Accountant is informed that under the provisions contained in the IA & AD Supervisor (Accounts) Recruitment Rules, 1986, the request of the re-employed Ex-Servicemen cannot be acceded to."



Mere reading of A7 makes it clear that it is not a speaking order.


4. The applicant is admittedly a Senior Accountant working under the respondents. A7 is issued by the Senior Accounts Officer. It is not known whether the author of A7 is competent to consider the case of the applicant set out in his representation. We asked the learned counsel for the respondents on this aspect, but he could not enlighten us.

5. A7 being a non-speaking order and as it is also not known whether the author of it is competent to pass A7 order, it is liable to be quashed.

6. A7 is issued in response to the applicant's representation dated 22.5.96. A copy of the said representation is not available and it is not known to whom it was addressed.

7. Learned counsel appearing for the applicant submitted that the applicant may be permitted to make a representation to the 2nd respondent for redressal of his grievance. Learned counsel appearing for the respondents submitted that there is no objection in permitting the applicant in submitting a representation to the 2nd respondent for redressal of his grievance.


8. Accordingly, A7 is quashed. The applicant is permitted to submit a representation to the 2nd respondent through proper channel within three weeks from today. If such a representation is received, the

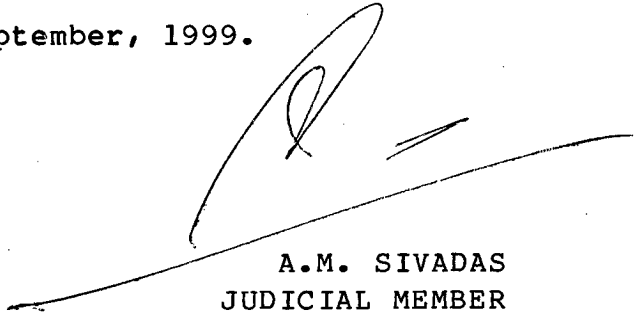


2nd respondent shall consider the same and pass a speaking order within three months from the date of the receipt of the same.

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

Dated the 24th day of September, 1999.

  
J.L. NEGI  
ADMINISTRATIVE MEMBER

  
A.M. SIVADAS  
JUDICIAL MEMBER

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LIST OF ANNEXURE REFERRED IN THE ORDER

Annexure A7: True copy of Memo Admn.V/Misc/III/TR/157  
dated 10.6.96 issued by the 3rd  
respondent.

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