

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 23 OF 2011**

Monday, this the 6<sup>th</sup> day of June, 2011

**CORAM:**

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER  
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

P.Unnimoyin  
Technical assistant  
(Telecommunication Wing)  
Customs Preventive Division  
Mananchira, Kopzhikode

...

**Applicant**

(By Advocate Mr.CSG Nair )

versus

1. Union of India represented by its Secretary  
Department of Revenue  
North Block,  
New Delhi – 110 001
2. Chief Commissioner of Central Excise & Customs  
Central Revenue Buildings  
IS Press Road  
Cochin – 682 018
3. Commissioner of Central Excise & Customs  
Central Revenue Buildings  
IS Press Road  
Cochin – 682 018
4. Commissioner of Customs(Preventive)  
Central Revenue Buildings  
IS Press Road, Cochin – 682 018
5. Deputy Commissioner of Customs(Preventive)  
Customs Preventive Division  
Mananchira  
Kozhikode

...

**Respondents**

(By Advocate Mr. George Joseph, ACGSC )

The application having been heard on 06.06.2011, the Tribunal  
on the same day delivered the following:



**ORDER****HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER**


The applicant is working as Technical Assistant in the Telecommunications Wing of Customs and Central Excise Department. Subsequently, he was granted 1<sup>st</sup> ACP under ACP Scheme with effect from 09.08.1999 to the pay scale of ₹ 5000-150-8000 as evidenced from Annexure A-2. Accordingly, his pay was re fixed in the said scale and Pay fixation statement was issued. Annexure A-3 is produced as a copy thereof. Subsequently, he was promoted as Technical Assistant vide Annexure A-4 dated 15.02.2006. He was granted 2<sup>nd</sup> ACP in the pay sale of ₹ 5500-175-9000 vide Annexure A-5 dated 04.04.2005. The pay fixation statement has been issued vide Annexure A-6 dated 03.08.2006. While so, based on the judgment of the Hon'ble High Court of Madras pay scales of maintenance stream in the Telecom Wing were revised with retrospective effect from 01.01.1996 as per Annexure A-7 dated 18.02.2009. The pay scales were accordingly revised from ₹ 4500- 7000 to ₹ 5000- 8000. According to the applicant, the 1<sup>st</sup> ACP should be ₹ 6500-10500 i.e, to the pay scale of Superintendent (Maintenance). Representation made to that effect , however, did not respond favourably. The applicant's pay was fixed in the scale of ₹ 5000-150-8000 with effect from 01.01.1996 and the 1<sup>st</sup> ACP was given in the scale of ₹ 5500-175-9000. But he was not given 2<sup>nd</sup> ACP holding that as the pay scale of Technical Assistant and Senior Technical Assistant are one and the same and he is not entitled for fixation of his pay. The pay fixation order Annexure A-10 is dated 13.10.2009.



2. According to the applicant, he has completed 24 years of regular service as on 24.06.2005 and was granted 2<sup>nd</sup> ACP as per Annexure A-6 in the scale of ₹ 5500-175-9000. But the scale was upgraded and his pay ought to have been fixed in the scale of ₹ 6500-10500. It is also contended that 3<sup>rd</sup> respondent, a similarly situated Technical Assistant was granted the pay scale but it was denied to the applicant. In the circumstances, it is prayed to direct the respondents to refix his pay in the pay scale of ₹ 6500-10500 with effect from 24.06.2005 the date on which 2<sup>nd</sup> ACP was granted with all consequential benefits within a stipulated period.

3. The respondents though has not filed any reply statement has filed an MA 347/11 producing copy of order dated April, 2011 issued by the Commissioner, Central Excise & Customs, Cochin marked as Annexure MA-1. It is prayed in the MA that subsequent to the order passed by the Commissioner, there is no issue pending for adjudication as the grievance sought for by the applicant stood redressed by issuance of MA-1 order.

4. We have heard both sides. We have already referred to the reliefs sought for by the applicant. As per Annexure MA-1, it is stated that consequent upon the revision of the pay scales of the Communication Staff with effect from 01.01.1996 vide Ministry's letter dated 18.02.2009, the 1<sup>st</sup> and 2<sup>nd</sup> Financial Upgradation granted to the applicant, Shri Unnimoyin, Technical Assistant were revised as thereunder. It is seen that the 1<sup>st</sup> ACP has now been granted with effect from 09.08.1999 in the pay scale of ₹ 5500-9000 and the 2<sup>nd</sup> ACP with effect from, 24.06.2005 in the pay scale of ₹ 6500-10500 which is the exact relief as sought for in the OA.



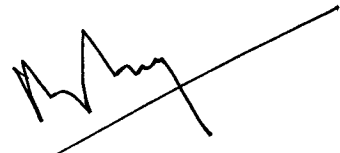
5. The OA in such circumstances has become infructuous. Though the applicant claims for interest, without any adjudication respondents have already passed the order. In the circumstances, it is not a fit case to award any interest.

6. OA is closed as infructuous. No costs.

Dated, the 6<sup>th</sup> June, 2011.



**K GEORGE JOSEPH**  
**ADMINISTRATIVE MEMBER**



**JUSTICE P.R. RAMAN**  
**JUDICIAL MEMBER**

VS