

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 23 OF 2011

Monday, this the 6th 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:

[Signature]

ORDER

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

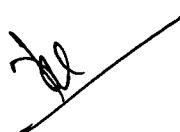
The applicant is working as Technical Assistant in the Telecommunications Wing of Customs and Central Excise Department. Subsequently, he was granted 1st ACP under ACP Scheme with effect from 09.08.1999 to the pay scale of ₹ 5000-150-8000 as evidenced from Annexure A-2. Accordingly, his pay was re fixed 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 2nd ACP in the pay scale 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 1st 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 1st ACP was given in the scale of ₹ 5500-175-9000. But he was not given 2nd 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 2nd 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 3rd 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 2nd 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 1st and 2nd Financial Upgradation granted to the applicant, Shri Unnimoyin, Technical Assistant were revised as thereunder. It is seen that the 1st ACP has now been granted with effect from 09.08.1999 in the pay scale of ₹ 5500-9000 and the 2nd 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.

A handwritten signature in black ink, appearing to read 'J. Unnimoyin', is placed over a diagonal line.

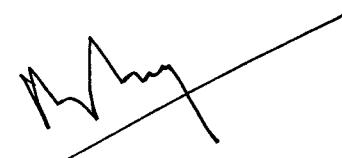
5. The OA in such circumstances has become infructuous. Though the applicant claims for interest, without any adjudication respondents have already passed the order. In the circumstances, it is not a fit case to award any interest.

6. OA is closed as infructuous. No costs.

Dated, the 6th June, 2011.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

VS