

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.253/99

Thursday, this the 4th day of March, 1999.

CORAM:

HON'BLE MR R.K.AHOOJA, ADMINISTRATIVE MEMBER

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

P.M.Unni,  
Stenographer(Retd),  
Padippurakkal House,  
Triprayar, Valppad.P.O.  
PIN: 680 567.

- Applicant

By Advocate Mr P Sanjay

vs

1. Union of India represented by  
Secretary,  
Ministry of Defence,  
South Block,  
New Delhi-1.
2. Chief of Naval Staff,  
Naval Head Quarters,  
South Block,  
New Delhi-110 011.
3. Flag Officer Commanding-in-Chief,  
Head Quarters,  
Southern Naval Command,  
Cochin-4.
4. The Flag Officer,  
Goa Area(FOGA),  
Vasco da Gama, Goa.
5. Deputy Controller of Defence Accounts,  
Naval Base,  
Cochin.

- Respondents

By Advocate Mr Govindh K Bharathan, SCGSC

The application having been heard on 4.3.99, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR R.K.AHOOJA, ADMINISTRATIVE MEMBER

The applicant who joined service at INS HANSA was appointed as Stenographer Selection Grade w.e.f. 17.7.77 in a vacancy that arose due to the resignation of the permanent

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incumbent. He was thereafter transferred to INS GARUDA, Cochin on compassionate grounds. He made representations to give him continuity in service and protection of the last pay drawn as Stenographer Selection Grade while posted in Goa. These representations were rejected. The applicant then approached this Tribunal with O.A.159/89. The same was however, dismissed by the Tribunal with the following observations:

"..Only because of his request for posting at Cochin, he cannot be given the selection grade post and at present he is not eligible to be appointed in that post at Cochin because of his bottom seniority. However, he may get a posting to the selection grade at Cochin when his turn according to the seniority arrives. Under these circumstances, he has no scope of any grievance at present and his application is devoid of any merits."

2. The applicant submits that thereafter he made a further representation to the Chief of Naval Staff, New Delhi to consider his case and was given to understand that the Naval Headquarters had instructed lower formations after accepting the representation as correct. He also received a reply dated 15.6.96 stating that his case was being taken up by the Naval Headquarters for obtaining Government sanction. However, he has now been informed by the letter A-8 dated 27.7.98 that his request is not covered under the existing orders on the subject.

3. We have heard the counsel. We find that the applicant had essentially raised the same issue before the Tribunal in O.A.159/89. The only new development to which the learned counsel for applicant drew our attention is the letter of the Commanding Officer, INS GARUDA dated 30.3.94 A-4 which is addressed to the DCDA, Cochin stating that the appointment of

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the applicant has been made on regular basis w.e.f. 17.7.77. We find that even in this letter the only request is that the pay of the individual in the post of Stenographer Grade'D' be determined on the basis of compassionate ground transfer w.e.f. 16.11.77. It is however, seen from the letter dated 25.6.96 A-5 from the Headquarters, Southern Naval Command that the case of the applicant was considered by way of recommendation to the Central Government for relaxation of the rules. The relaxation of rules is a matter for the respondents to decide. It is clear that under the rules the applicant is not entitled to the protection of pay in Selection Grade on transfer from Goa to Cochin.

4. Since we find that the matter has already been concluded by A-3 order of the Tribunal, the present application is not maintainable. The same is accordingly dismissed.

  
Dated, the 4th of March, 1999.

  
(A.M.SIVADAS)  
JUDICIAL MEMBER

(R.K.AHOOGA)  
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A3: True copy of the judgement in OA 159/89 dated 3.1.90
2. Annexure A4: True copy of the communication No.275/56/4 dated 30.3.94.
3. Annexure A5: True copy of the letter No.CS/2103/43 dated 15.6.96.
4. Annexure A-6: True copy of the letter No.CP/p/1027/XII dated 27.7.98

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