

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.260/2002

Wednesday this the 26th day of June, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

R.Ramachandra Iyer,
Sub Post Master,
Chengamanad Junction Post Office,
Quilon District.

...Applicant

(By Advocate Mr.Thomas Mathew)

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1. Senior Superintendent of Post Offices,
Quilon Division,
Quilon.
2. Union of India, represented by
its Secretary, Department of Posts,
New Delhi.

..Respondents

(By Advocate Mr.Sunil Jose)

The application having been heard on 26.6.2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

While the applicant was working as Sub Postmaster, Kuzhimathikad he was transferred and posted as Sub Postmaster, Chengamanad Junction P.O. by order dated 1.4.1999. Since the applicant on relief on 9.4.99 joined at Changamanad during the first week of May, 1999, he was paid Transfer T.A. of Rs. 6,211/-. It is alleged that the applicant had changed his residence consequent on the transfer. While so the applicant was served with Annexure.A1 wherein he was told that as per the clarificatory order issued by the Directorate composite transfer grant was admissible only if a change of residence was involved and as enquiry revealed that there was no actual change of residence in his case, he was bound to refund a sum of Rs. 6211/- He was directed to comply with the direction. He submitted Annexure.A2

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representation stating that there was a change of residence and that he was not liable to refund the amount. However, he was served with Annexure.A3 order again directing him to credit Rs. 6211/- within ten days. Aggrieved by that the applicant has filed this application seeking to set aside the impugned orders Annexures.A1 and A3, declaring that the applicant is not liable to repay any amount received by way of Travelling Allowance and direct the respondents accordingly. It is alleged that as there was a change of residence without giving the applicant an opportunity to show cause against the proposal to recover the transfer grant given to him, the action on the part of the respondents in directing the applicant to refund the amount is arbitrary, irrational and unjustified.

2. Though the respondents were given time to file a reply statement, the respondents did not file any reply statement. However, the learned counsel of the respondents argued that on enquiry it was revealed that there was no change of residence on his transfer and therefore, the payment being irregular the respondents were right in asking the applicant to refund the amount.

3. I have gone through the application and the materials placed on record and have heard the learned counsel on either side. The transfer grant was paid to the applicant in the year 1999. The transfer T.A.claim of the applicant should have been ordered in that year after due verification. It is not known how all of a sudden after three years, the respondents felt that there was no change in the residence of the applicant on account of his transfer. However, when Annexure.A1 memo was served on the applicant, the applicant in his representation

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Annexure.A2 stated that there was a change in his residence. Without holding an enquiry with which the applicant was not associated, the respondents could not have validly concluded that the applicant claimed Transfer T.A without there being a change of residence. Directing the applicant to refund a sum of Rs. 6211/- paid to him three years back is an order which visits him with adverse civil consequence. It is well settled by now that an order which visits a person with adverse consequences should not be made without giving that person an opportunity to show cause. That having not done in this case, I am of the considered view that the impugned orders are unsustainable. I therefore, set aside the impugned order.

4. The Original Application is allowed. No costs.

Dated the 26th day of June, 2002



A.V. HARIDASAN
VICE CHAIRMAN

(s)

A P P E N D I X

Applicant's Annexures:

1. A-1 : True copy of Order No.E3/TA dated 11.2.2002 issued by the 1st respondent.
2. A-2 : True copy of applicant's representation dated 28.2.2002 to the 1st respondent.
3. A-3 : True copy of order No.E3/TA dated 20.3.2002 issued by the 1st respondent.

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