

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No.265/2013

*Tuesday*..... this the *15<sup>th</sup>* day of September 2015

**C O R A M :**

**HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER**  
**HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER**

B.Ambili,  
W/o.Subhash.A.P.,  
Company Prosecutor,  
Office of the Registrar of Companies,  
Company Law Bhavan, Kochi – 682 020.  
Residing at Flat No.12-C,  
OAK WOOD, Sky Line City,  
Park Apartments, Jawahar Nagar,  
Kadavanthra, Cochin – 682 020.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**V e r s u s**

1. Union of India  
represented by the Secretary to the Government of India,  
Ministry of Corporate Affairs, Shastri Bhavan,  
New Delhi – 110 001.
2. The Regional Director,  
Ministry of Corporate Affairs,  
Shastri Bhavan, Chennai – 600 006.
3. The Registrar of Companies,  
Company Law Bhavan, Kadavanthra,  
Cochin – 682 020.

...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC)

This application having been heard on 3<sup>rd</sup> September 2015 this Tribunal on *15<sup>th</sup>* September 2015 delivered the following :



ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant presently working as a Company Prosecutor in PB-2 + GP Rs.4600/- in the office of the Registrar of Companies, Kochi is aggrieved by an Office Memorandum bearing No.A-23011/08/2011-Ad.II dated 6.7.2011 and the seniority list enclosed therewith indicating erroneously her date of appointment/date of entry into the grade as 29.8.2008, as against the actual requirement of 1.8.1995.

2. The applicant was initially appointed as a Legal Assistant/Company Prosecutor Gr.III with effect from 1.8.1995 in the then scale of pay of Rs.1400-2300/- which was replaced by a scale of pay of Rs.5500-9000/- with effect from 1.1.1996. On and with effect from 1.1.2006, the posts in the categories of Company Prosecutor Gr.II in scale Rs.6500-10500/- and those in the Company Prosecutor/Legal Assistant Gr.III in scale Rs.5500-9000 stood upgraded and merged with a common replacement Pay Band of PB-2 plus GP Rs.4600/-. It is well known that the "Schedules" contained the rules is part of the rules and the same comes into force with effect from the same date from which the main rule comes into force, except where it is so specifically stated. It is clear from Part C of Annexure A-2, Schedule I, that the merger of the posts of Company Prosecutor in the pre-revised scale of Rs.5500-9000 and those in scale Rs.6500-10500 comes into effect from 1.1.2006 with the upgraded pay scale of Rs.7450-11500 and, therefore, the replacement Pay Band and Grade Pay would be PB-2 plus



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Rs.4600/-. The applicant was being granted PB-2 + GP Rs.4600/- the replacement pay band of the scale of pay of Rs.7450-11500/- with effect from 1.1.2006. In Annexure A-4 seniority list there were no columns as is usually done in all the departments and instead the captions were date of entry into/as – CP III/Inspector/LA and CP II/CP. Against these two columns, in the case of the applicant, the entries are 1.8.1995 and 29.8.2009. The entries give a wrong indication that the applicant and others included in Annexure A-4, came over to a different cadre of Company Prosecutors on dates after 1.1.2006. Aggrieved the applicant filed Annexure A-6 and Annexure A-7 representations which were rejected by Annexure A-1 stating, inter-alia, that the seniority will be counted only from 29.8.2008, the date of notification. Along with Annexure A-1, the final seniority list was also found enclosed. The applicant has therefore filed this O.A seeking the following reliefs :

1. Call for the records leading to the issue of Annexure A-1 and quash the same to the extent it relates to the applicant.
2. Declare that the respondents are bound to show the date of applicant's date of entry into the grade/date of appointment as Company Prosecutor as 1.8.1995 as against the two dates of 1.8.1995 and 29.8.2008 shown in Annexure A-1.
3. Direct the respondents to record the applicant's date of entry/appointment of the applicant as Company Prosecutor as 1.8.1995 and direct further to grant all the consequential benefits emanating therefrom.
4. Award costs of and incidental to this Application.
5. Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.



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3. The respondents in their reply state that the alleged grievance of the applicant is against Annexure A-1 OM along with the seniority list enclosed therewith issued by the 1<sup>st</sup> respondent, in which the date of appointment/date of entry of applicant into the grade is shown as 29.8.2008 as against the actual requirement of 1.8.1995. This is a clear misrepresentation of the facts. It is submitted that the said seniority list is of Company Prosecutor which includes officials who were in position on the date of notification of Central Civil Service (Revised Pay) Rules holding the post of Company Prosecutor Grade II (CP II) a Gazetted Group B post in the scale of Rs.6500-10500 and Company Prosecutor Grade III (CP III) a Non Gazetted Group C post in the scale Rs.5500-9000. As far as the officials holding CP II post the date of appointment as CP II and date of entry into CP II are mentioned therein. In either case they are always senior to CP IIIs irrespective of their date of entry and no wrong is committed in mentioning date of appointment/date of entry into the grade mentioned in the relevant column. The merger has come into place with effect from 1.1.2006 as per Annexure A-2 because the merger of scale and upgraded pay of Rs.7450-11500 and replacement Pay Band of PB2 plus GP of Rs.4600/- has been made effective from 1.1.2006. It is submitted that in the final seniority list against her name the date of entry in to/as CP III/Inspector/LA and CP II/CP is shown as 1.8.1995 and 29.8.2008 as she has been placed as CP upon merger on 29.8.2008 and till then she functioned as a CP II. Merely because financial benefits were given with effect from 1.1.2006, it does not mean that her date of entry as CP is 1.1.2006. The respondents submit that the



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very purpose of the O.A appears to be gaining ground for her arguments in O.A.No.219/2013 in which she claims ACP in PB2 with GP of Rs.5400/-. This O.A is only experimental in nature, for the sole reason that the applicant had no objection to the date which was assigned to her from 2011 onwards. The respondents further clarified that all those who were holding the post of CP II would be senior to those who are CP IIIs, without considering the date of entry as C.Ps. It is submitted that the applicant has no grievance that any of her juniors were placed above her or she has been denied of any promotion due to her entry shown as 29.8.2008. It is submitted that the date of notification of the CCS (Revised Pay) Rules 2008 is the material date on which the post of CP III got merged with CP II to form CP, a Gazetted post which cannot claim benefits like festival advance or bonus. Having enjoyed all such benefits the applicant cannot now claim that merely because financial benefit was given to her with effect from 1.1.2006 due to merger of the posts, she was CP with effect from 1.1.2006.

In the additional reply statement filed by the respondents it is stated that though the said notification for amalgamation of the two posts ie. CP II Gazetted and CP III were made effective from 1.1.2006, yet it was dated 29.8.2008 and clear mention was also made that the date of entry to the post of CP could be reckoned only with effect from 29.8.2008 ie. from the date of notification.



4. Heard the learned counsel for the parties and perused the documents and annexures produced by the parties. Post VI CPC the post of CP II and CP III were merged into CP with Pay Band 2. The date of merger should be the date of effect of VI CPC recommendations ie. 1.1.2006 and not the actual date of entry into the post as a result of the merger. Hence the applicant's entry from CP III to CP would be 1.1.2006. Annexure A-1(2) contains besides the mandatory data two important columns ie. date of entry as CP III/Inspector/LA and date of entry as CP II/CP. Whereas the former is important for indicating the date of entry into the grade CP III, the latter is important for indicating the date of merger which is date of implementation of VI CPC recommendations for creation of CP by merging CP III and CP II. Hence the date indicated in the CP Column should be 1.1.2006 ie. date of implementation of VI CPC recommendations. The applicant's prayer for ante-dating this date to 1.8.1995 is not accepted as the VI CPC recommendations was not effective from 1.8.1995 but was effective with effect from 1.1.2006. Hence Annexure A-1 (2) and (3) be modified with respect to Column showing date of entry into CP as 1.1.2006.

5. The O.A is disposed of accordingly. No order as to costs.

(Dated this the 15<sup>th</sup> day of September 2015)

  
P. GOPINATH  
ADMINISTRATIVE MEMBER

  
JUSTICE N.K. BALAKRISHNAN  
JUDICIAL MEMBER

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