

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.27/97

Dated the 1st December ,1999.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI G.RAMAKRISHNAN, MEMBER(A)

K.Balakrishna Pillai,  
Assistant Superintendent of Railway Mail Service,  
Trivandrum Railway Mail Service/II,  
Railway Mail Service, Trivandrum Division,  
Thiruvananthapuram. ....Applicant

(By Advocate Shri O.V.Radhakrishnan)

vs.

1. Head Record Officer,  
Railway Mail Service,  
Trivandrum Division, Thiruvananthapuram.
2. Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.
3. Director General of Posts,  
Department of Posts, New Delhi.
4. Union of India, represented by its Secretary,  
Ministry of Communications, New Delhi.  
..... Respondents

(By Advocate Mr. James Kurien, ACGSC)

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

Applicant who is now working as Assistant Supdt. of Railway Mail Service, Trivandrum Railway Mail Service, Trivandrum Division was by order dated 10.5.89(A-7) promoted to the post of Inspector of RMS and his pay was fixed giving the benefit of FR 22(c). Before he was so promoted, he had already been given the next higher grade in the Lower Selection Grade (LSG) which is equal to the scale of pay of

Inspector of RMS. While the applicant was drawing the pay on the basis of that fixation, he was served with A-8 impugned order dated 29.11.96 whereby on the basis of an order of the Director General of Posts, New Delhi dated 31.5.95(A-9), the applicant's pay was refixed with retrospective effect and a sum of Rs.15,970/-was sought to be recovered from his pay and allowances. The applicant aggrieved by that made a representation A-10 to the Chief Postmaster General but finding that the respondents were making efforts to implement the order by making deductions from the applicant's pay and allowance, the applicant filed this application seeking to have the impugned orders A-8 and A-9 set aside and for a direction to the respondents to refund the amount being the difference on reduction of the pay of the applicant pursuant to A-8 and not to make any recovery from his pay on the basis of A-8.

2. Respondents have filed a detailed reply statement seeking to justify the impugned action.

3. When the application came up for final hearing today, the learned counsel of the respondent fairly conceded that the Annexure A8 order which has adverse civil consequences on the applicant having been issued without giving the applicant a notice and an opportunity to show cause is vitiated for non-observance of principles of natural justice and cannot be sustained. However he stated that the impugned order Annexure A8 may be set aside reserving liberty to the respondents to take appropriate action in accordance with law after giving the applicant a

notice and an opportunity to show cause Mr O.V.Radhakrishnan, learned counsel of the applicant agreed that the course suggested by the learned counsel for the respondents may be adopted.

4. In the light of what is stated above, we set aside A-8 impugned order without expressing any opinion on the legality of A-9 and the action taken thereunder. The amount if any recovered pursuant to A-8 from the applicant shall be refunded to the applicant within a month. It is made clear that the respondents are at liberty to take appropriate action for refixation of applicant's pay if rule permits to do so after giving the applicant a notice and hearing him.

5. The Original Application is disposed of as above.  
No order as to costs.



G. RAMAKRISHNAN  
MEMBER(A)



A.V. HARIDASAAN  
VICE CHAIRMAN

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List of Annexures referred to in the Order:

1. Annexure-A7 True copy of Memo No. ST/18-3-97 dated 10.5.89 of the 2nd respondent.
2. Annexure A8 True copy of the Order No. 2725/A2/245/FP dt.29.11.96 of the 1st respondent.
3. Annexure-A9 True copy of the letter No.2-20/95-PAP dt.31.5.95 of the 3rd respondent.
4. Annexure A10 True copy of the representation dated 5.12.96 of the applicant to 2nd respondent.