

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 276 of 1991
T. A. No.

DATE OF DECISION 23-4-1992

KS Chacko Applicant (s)

Mr N Nandakumara Menon Advocate for the Applicant (s)

Versus

Union of India & 3 others Respondent (s).

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. SP MUKERJI, VICE CHAIRMAN

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Shri SP Mukerji, Vice Chairman)

In this application, the applicant who retired as Stenographer, All India Radio, Trivandrum on 30.4.1990 has challenged the impugned orders dated 18.2.1988 at Annexure-A and 13.7.1990 at Annexure-D ordering recovery of overpayment to the tune of Rs.8,264/- being the excess payment towards the salary made to him for the period from July 1974 to April 1990 on promotion to Selection Grade Stenographer from Stenographer Grade-III. In the impugned order at Annexure-A such recovery was directed in respect of 11 similarly placed Stenographers.

One of them, namely, Shri MS Sathyanarayanan challenged the same order in OA-146/88 before the Madras Bench of the Tribunal which was disposed of by order dated 11.10.1988, a copy of which is at Annexure- B. The relevant extracts from the judgement are quoted below:

"As regards OA No.146/88, it is admittedly a wrong fixation that was done under FR-22-C. However, to order recovery after 14 years is certainly not in order. The impugned order dated 16/18.2.1988 of the Directorate General, All India Radio ordering recovery of the amount over paid due to wrong fixation, i.e. Rs.5,664.70 from the applicant is accordingly quashed as far as the applicant is concerned."

2. We have heard the learned counsel for the parties and gone through the documents carefully.

3. The learned counsel for the applicant states that since he is similarly circumstanced as Shri Sathya Narayanan, the respondents unwarrantly rejected his representation on the ground that he was not a party before the Madras Bench of the Tribunal. From the records it further appears that by another impugned order dated 13.7.1990 at Annexure-D, a further recovery of Rs.4,691.00 in addition to Rs.3,573.00 already ordered at Annexure-A order was directed to be recovered. The additional amount of Rs.4,691.00 was in respect of the overpayment between October 1981 and April 1990. There is no reason why the amount of over payment for the period from 1981 to 1988 was not included in the order at Annexure-A dated 18.2.1988. It appears to us

that the respondents have been committed mistakes all around
and have tried to make amends ^{after} ~~between~~ 14 to 16 years after the
fixation of salary had been made wrongly by them. Following
the ratio of the Madras Bench of the Tribunal, we see no
reason why the applicant who is a retired employee should be
made to suffer for such a mistake. By the ^{efflux of} ~~about~~ time the
respondents are estopped from ^{revising} ~~reversing~~ the fixation of ^{his} ~~the~~ pay
fixed about more than 15 years ago.

4. In the facts and circumstances, we allow the application,
set aside the impugned orders at Annexure-A dated 18.2.1988,
Annexure-C dated 6.3.1990 and Annexure-D dated 13.7.1990 and
direct that the amount of Rs.8,264/- recovered from the DCRG
^{of} ~~from~~ the applicant be refunded to him. In the circumstances
of the case, we do not find it necessary to allow any interest
on the recovered amount. The refund should be made within a
period of three months from the date of communication of
this order.


(AV HARIDASAN)
JUDICIAL MEMBER


23.4.92
(SP MUKERJI)
VICE CHAIRMAN

23-4-1992

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