

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 282 of 1995

Thursday, this the 11th day of July, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. M. Retnakaran, S/o M. Sani,
Kalanilayam, Padinjattin Kara,
Kottarakkara, Kollam
(Now employed as Officiating UDC-Cashier
in Local Office, Employees State Insurance
Corporation, Kottarakkara). .. Applicant

By Advocate Mr. M. Rajagopalan

Versus

1. The Regional Director,
Regional Office,
Employees State Insurance Corporation,
Trichur-20 .. Respondent

By Advocate Mr. KS Bahuleyan for Mr. TPM Ibrahim Khan, SCGSC

The application having been heard on 11th July 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a direction to respondent to fix his pay, as if he had not suffered reversions during different spells between 15.1.1988 and 4.4.1993.

2. Applicant commenced service as a Lower Division Clerk on 1.2.1982. He was promoted as an Upper Division Clerk sometime in January 1985 and reverted on 15.1.1988 (after three years). Again he was promoted on 25.1.1988, reverted on 18.3.1988, promoted on 26.10.1988 and reverted on 24.4.1989, and then promoted on 5.4.1993. This chequered career of reversions and promotions led to forfeiture of increments.

3. Respondent would justify their action on the ground that:

"it is not feasible to draw a seniority list in respect of all the officials in Kerala Region for filling up the short term vacancies In Kerala Region, there were 114 number of Lower Division Clerks and 49 Upper Division Clerks declared as surplus...".

Apart from the fact that a separate seniority list is not needed for the purpose, and that 114+49 is not such a large number, there is no justification for adhocism, and certainly A-5 order rejecting the representation of applicant is not a speaking order.

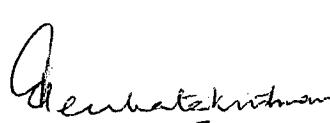
It only states:

".... there is no provision in the rules to fix pay as requested by you. Your juniors have been promoted against temporary/leave vacancies and their promotions have been made purely on local adhoc basis."

4. Annexure A-5 order does not meet the contentions raised by applicant. If applicant would have continuous service, but for postings, based "not on seniority, but on local requirements", the benefit cannot be denied only because of the difficulty of the department in maintaining a seniority list. We quash Annexure A-5 order and direct respondent to pass a speaking order, referring to the vacancy position vis-a-vis the eligibility of applicant for promotion, after considering the contentions in Annexure A-4.

5. Application is allowed as aforesaid. Parties will suffer their costs.

Dated the 11th July, 1996


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure-A4: True copy of the representation dated 16.5.1994 submitted to the respondent by the applicant.
2. Annexure-A 5: True copy of the order No.54-A.20/11/803/93.KTR dated, 29-11-94 issued by the Manager, E.S.I. Corporation Local Office, Kottarakkara to the applicant.

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