

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 284/99

Tuesday, this 19th day of June, 2001

CORAM :

HON'BLE SHRI A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.T. Varghese,
S/o Thomas, aged 62 years,
Retired Assistant Accounts Officer,
(Canteen Stores Department),
Hill Villa, Othara, P.O.(E),
Thiruvalla.Applicant

(By Advocate Mr. Thampan Thomas)

Vs.

1. The Secretary to Board of Control,
Canteen Service, Block L-1, Room No.16,
Church Road, New Delhi.
2. The General Manager,
Canteen Stores Department,
'Adelphi', 119 M.K. Road,
Bombay-400020.Respondents

(By Advocate Mr. K.R. Rajkumar, ACGSC)

The application having been heard on 19.6.2001, the Tribunal the same day delivered the following :

O R D E R

HON'BLE A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash Annexure A9, A9(a) and A10, to direct the respondents to re-fix the pension at Rs.1300/- per month as per Annexure A1, to declare that he is entitled to get the benefits of pay fixed originally as per Annexure A1, and to fix the pay on the basis of promotion on the date of qualifying service i.e. June, 1989.

2. The applicant retired from Canteen Stores Department as Assistant Accounts Officer on 31.7.1995 having 36 years of service in the scale of pay of Rs.2000-3500/- and his basic pay on the date of retirement was Rs.2600/-. He was promoted to a

regular vacancy from the post of Accountant to the post of Assistant Accounts officer on 5.11.1990. He was discharging the duties of Assistant Accounts Officer from 1984 onwards but he had no qualifying service of five years as an Accountant to get promotion to the post of Assistant Accounts Officer at that time. As per Annexure A9 and A10 his pension is fixed at Rs.1225/- in compliance with the Annexure A8 order issued by this Bench of the Tribunal in OA 124/97. He was eligible for promotion on completion of 5 years service in June, 1989. No DPC was held for considering his promotion. He is entitled to get fixed his pay w.e.f. 1989 onwards at the higher rate.

3. Respondent resist the OA saying that the applicant was promoted as Assistant Accounts Officer on regular basis w.e.f. 5.11.90. Prior to that he was given adhoc promotion. The applicant had been given pay fixation w.e.f. 23.7.87 as against his claim from June, 1989.

4. Annexure A10 is the pay fixation of the applicant as per FR 22. As per the same, his pay was fixed at Rs.2450/-. Annexure A9(a), the Pension Payment order, says that the applicant is entitled to pension of Rs.1225/- w.e.f. 10.7.98 and Annexure A9 says that his final pension has been reduced to Rs.1225/-. A9 also directs to refund the excess pension amounting to Rs.1825/-.

5. The applicant earlier approached this Bench of the Tribunal by filing OA 124/97 and that was disposed of quashing A-6, A-8, A-9 and A-10 orders and directing the respondents to refund to the applicant the recovery, if any, made from his pension and travelling allowance till date and not to recover any further amount from the provisional pension fixed and the



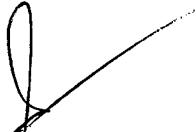
final fixation of pension shall be done expeditiously. It is in compliance with the direction in the impugned orders are issued.

6. The learned counsel appearing for the applicant argued that fixing the pension of the applicant at Rs.1225/- is wrong and should have fixed at Rs.1300/- as his pay has been fixed at Rs.2600/-. As per A10 the pay has been fixed at Rs.2450/- and the pension has been fixed at Rs.1225/-. Fixation of pension at Rs.1225/- to be wrong, the fixation of pay as per Annexure A10 should also be wrong. We asked the learned counsel appearing for the applicant to show the legal provision to support that Annexure A10 fixation is wrong. We were not enlightened. We do not find anything wrong in fixing the pay as done in A10.

7. One of the grounds raised is that the applicant was not given any notice and hearing before fixing the pension at Rs.1225/-. There is no direction as per Annexure A8 order to do the final fixation of pension after notice and hearing the applicant.

8. Another ground raised is the applicant was eligible for promotion on completion of 5 years of service from June, 1989. Becoming eligible for promotion and getting promotion are different. Just by becoming eligible for promotion, one cannot be considered as promoted.

9. Still another ground raised is no DPC "had made promotion of the applicant". If the applicant was aggrieved by that he should have challenged that at the right time.

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10. One other ground raised is that the applicant is entitled to fixation of pay w.e.f. June, 1989 onwards. Respondents have categorically stated in the reply statement that though the applicant had made his claim only from June, 1989, he has been given pay fixation since 23.7.1987. There cannot be any grievance for the applicant on that ground.

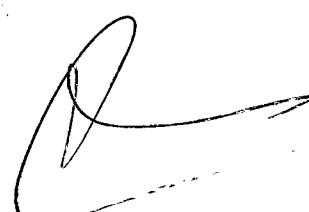
11. In Annexure A9 the respondents have specifically stated that pension of the applicant is fixed at Rs.1225/- w.e.f. 10.7.98 as per the Court Judgement. That Judgement is the order in OA 124/97. Respondents were directed as per the order in that OA to finally fix the pension of the applicant. So the final fixation of pension has taken w.e.f. 10.7.98. The recovery order as per A9 is only the excess amount paid after 10.7.98. The direction in A8 was not to recover any further amount from the provisional pension fixed. As per A9 the final fixation of pension has been done.

12. We do not find any merit in this OA. Accordingly, the OA is dismissed. No order as to costs.

This 19th day of June, 2001.



G. RAMAKRISHNAN,
ADMINISTRATIVE MEMBER



A.M. SIVADAS,
JUDICIAL MEMBER

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List of Annexures referred in the Order :

1. Annexure A1: True copy of the Order No.3129/95 dated 13.7.95 issued by the Asstt. General Manager of the 2nd respondent.
2. Annexure A8: True copy of the Order dated 10.7.98 in OA 124/97 of the Hon'ble Central Administrative Tribunal, Ernakulam Bench.

3. Annexure A9: True copy of the order No.3/Admn/B-8/Pen 1482/435 dated 22.1.99 issued by the 2nd respondent to the applicant.
4. Annexure A9(a): True copy of the Pension Payment Order No.3837/99(pen 1482) dated 27.1.99 issued by the 2nd respondent to the applicant.
5. Annexure A10: True copy of the Order No.3/Pers/A2/(PFC)/PN 0795 dated 28.9.98 of the applicant's pay fixation on regular promotion as per IVth Proviso to FR 22 issued by the 2nd respondent.
