

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 300 of 1996

Wednesday, this the 5th day of November, 1997

CORAM

HON'BLE MR. PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. AM SIVADAS, JUDICIAL MEMBER

1. V.M. Chandrasekharan,
Head Clerk, Regional Provident Fund
Commissioner Office, Kaloor,
Cochin-17 .. Applicant

By Advocate Mr. Vellayani Sundara Raju

Versus

1. The Central Provident Fund Commissioner,
8th Floor, Mayur Bhavan,
Connaught Circus, New Delhi-1

2. The Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhavan, Pattom,
Trivandrum-4

3. The Regional Provident Fund Commissioner,
Regional Provident Fund Commissioner Office,
Kaloor, Cochin.

4. Union of India represented by Secretary
to Government, Ministry of Labour,
New Delhi. .. Respondents

By Advocate Mr. PK Madhusoodhanan for Mr. NN Sugunapalan

The application having been heard on 5.11.1997, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant, who is a Head Clerk in the Regional Provident Fund Commissioner's Office, Kochi, is aggrieved by the fixation of seniority in A-2 and A-3 which, according to him, is not in accordance with the Recruitment Rules and with the judgment A-4 of the Full Bench of the Principal Bench in OA 1405/89 and

contd.

connected cases. Applicant prays that the seniority lists A-2 and A-3 be quashed and consequential benefits such as due promotion as Enforcement Officer/Assistant Accounts Officer in January, 1993 be granted to him. There is also a prayer that the lists have to be recast from the year 1962.

2. Respondents submit that in the Kerala office of the Employees Provident Fund Organisation, the examination was conducted to accommodate Examination Quota candidates in the Upper Division Clerk cadre only from the year 1964 and, therefore, the cut off date for revising the seniority list of Upper Division Clerks was taken as 1964. They also submit that as per the Recruitment Rules the ratio allotted to the Seniority Quota and Examination Quota in the cadre of Upper Division Clerk from the year 1962 to 1972 was 75:25 and from the year 1972 to 1984 the ratio was changed as 50:50. From the year 1984 to 1989, 25% of the vacancies of Upper Division Clerk has been reserved for Direct Recruits and the ratio among the Seniority Quota, Examination Quota and Direct Recruit Quota from the year 1984 to 1989 was 50:25:25.

3. We accept the contention of the respondents that it is not necessary to recast the seniority from the year 1962 and it is sufficient to recast it from 1964. However, we are unable to accept the contention of the respondents regarding the ratios adopted from the year 1962 to 1984. The respondents themselves have produced the Recruitment Rules R-1 and R-2. R-1 dated 30.4.1970 is an amendment to the 1962 Regulations and the relevant portion of it is as follows:

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S. No.	Post	Quota to be reserved for departmental promotion	Next lower grade from which promotion is to be made
8.	Upper Division Clerks (Regional Offices)	75 %	Promotion of Lower Division Clerks including Steno-typists, Telephone or Telex Operators in Regional Offices on a regional basis on the basis of seniority subject to the rejection of the unfit.
		25%	Promotion of Lower Division Clerks including Steno-typists, Telephone or Telex Operators in the Regional Offices on the result of a competitive examination restricted to existing Lower Division Clerks including Steno-typists, Telephone or Telex Operators of the Region."

This clearly indicates that starting from 30.4.1970 the ratio is 75:25 and it is not correct to say that the ratio from the year 1962 to 1972 was 75:25. Again, R-2 dated 28.12.1971 which is a further amendment to the same Regulations states for the relevant portion as follows:

"In the Third Schedule,

(a) against S.No.8 in the second column, for the entries "75%" and "25%" the following entries "50%" and "50%" shall respectively be substituted."

4. It is, therefore, clear that from 28.12.1971 the ratio was 50:50 and the statement made by the respondents in the reply that the ratio was 75:25 upto the year 1972 and from 1972 it was 50:50, is patently incorrect. When we turn to A-5 which is a statement showing the vacancy position in different years starting from the year 1964 and working out of the share of the Seniority Quota and Examination Quota, we find from Column-11 that the ratios adopted

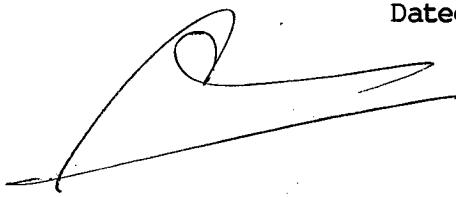
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have been shown as 75:25 from the year 1964 to 1971 and 50:50 from the year 1972 to 1984 and thereafter 50:25:25. As noticed above, these ratios have been incorrectly adopted. The ratios, according to R-1 and R-2, should be 50:50 upto 30.4.1970 and 75:25 from 30.4.1970 upto 28.12.1971 and thereafter 50:50 upto the year 1984. Therefore, it is clear that A-5 has been incorrectly prepared and the seniority lists A-2 and A-3 which are based on A-5 are, therefore, incorrectly prepared. Consequently, we are unable to sustain A-2 and A-3 and we quash the same.

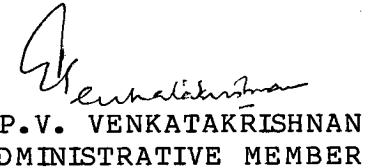
5. We direct the 2nd and 3rd respondents to prepare A-5 statement afresh adopting the correct ratios as indicated by R-1 and R-2 amendments to the Regulations of 1962 and in the light of A-4 judgment of the Full Bench of the Principal Bench. After the A-5 statement is correctly prepared, the seniority list based on the corrected A-5 will be prepared provisionally and the list will be finalised after giving adequate opportunities to the concerned persons to represent, if so advised. This exercise shall be completed within four months from today.

6. The application is allowed as aforesaid. No costs.

Dated the 5th of November, 1997



A.M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A2: Relevant pages of Circular No.KR/Adm.I/EI (5)/93 dated 1.10.93 of the 2nd Respondent-final seniority list of Upper Division Clerk.
2. Annexure A3: Relevant pages of Circular No.KR/Adm.EI(5)/94 dated 20.1.1994 of the 2nd respondent-final seniority list of Head Clerks.
3. Annexure A4: Judgement in O.A.1405/89 dated 24.2.1993 of the Principal Bench of Central Administrative Tribunal, New Delhi.
4. Annexure A5: Circular No.KR/Adm.EI (5)/93 dated 25.5.93 of the 2nd respondent regarding yearwise vacancy position of Upper Division Clerk.
5. Annexure R1: Employees Provident Fund(Staff conditions of service) Regulation 1962 Notification dated 16.5.1970 issued by the Assistant Provident Fund Commission No. 14/9/69/Adm.(R) II dated 27.5.1970 to the all Members, Central Board of Trustees.
6. Annexure R2: Gazette notification dated 8.1.1972 (Gazette of India Part II-Section 3 Sub-Section (i))

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