

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.334 OF 2010

Tuesday, this the 18th day of October, 2011

CORAM:

**HON'BLE Dr.K.B.S RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

Pushpangadan, aged 47 years
S/o.K.K Gangadharan
Lower Division Clerk, Income Tax Appellate Tribunal
Kendriya Bhavan, Kakkanad, Kochi – 37
Residing at: Mappillassery Kandathil House
Kannampalli Bhagam, Kayamkulam P.O

Applicant

(By Advocate – Mr.T.C G Swamy)

Versus

1. Union of India represented by
The Secretary to the Government of India
Ministry of Law and Justice, New Delhi
2. The Registrar
Income Tax Appellate Tribunal
Central Govt. Offices Building, 4th Floor Maharshi Karve Marg
Mumbai – 400 020
3. The Assistant Registrar
Income Tax Appellate Tribunal, 3rd & 4th Floor, Santosh Complex
K.G Road, Bangalore – 560 009
4. The Assistant Registrar and Drawing and Disbursing Officer
Income Tax Appellate Tribunal
Kendriya Bhavan, 1st Floor, C Wing, Kakkanad, Ernakulam
5. Dr.O.K Narayanan
Vide President, Income Tax Appellate Tribunal, 3rd & 4th Floor,
Santosh Complex, K.G Road, Bangalore – 560 009

b

6. The Grievance Cell
 Income Tax Appellate Tribunal, Bangalore Zone
 3rd & 4th Floor, Santosh Complex, K.G Road,
 Bangalore – 560 009 - Respondents

(By Advocate – Mr.Sunil Jacob Jose, SCGSC (R1-4 &6)

The application having been heard on 18.10.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S RAJAN, JUDICIAL MEMBER

1. The applicant prays for the following relief:-

“(i) Call for the records leading to the issue of Annexure A3, A5 and A-7 and quash the same;

(ii) Direct the respondents to allow the applicant to continue to enjoy the benefit of PB Rs.9300-34800 with Grade Pay of Rs.4200/- with effect from 03.12.2007, with all consequential arrears of Pay and Allowances arising there from;

(iii) Direct the respondents to refund the amount of arrears of Pay and Allowances consequent upon the declarations and directions above with interest calculated @ 12%/ Annum from the date from which the reduction of pay was effect month after month and to be calculated up to the date of full and final settlement of the same.

(iv) Award costs of and incidental to this application.”

2. After contesting the O.A, at last, wisdom dawned upon the respondents, whereby vide order dated 09.02.2011 the following order has been passed:-

“ The Hon'ble Vide President, Income Tax Appellate Tribunal has since directed to convey that Sh.G Pushpangadan, L.D.C, I.T.A.T., Cochin Bench, Cochin may be allowed to draw the salary as per the clarification of the Pay and Accounts Office received vide letter dated 24th January, 2011 (Copy enclosed for ready reference).

Shri G Pushpangadan, L.D.C., I.T.A.T., Cochin may also draw arrears admissible to him, if any according to the above fixation.

The Hon'ble Vice President has further directed to convey that Shri G Pushpangadan, L.D.C., I.T.A.T., Cochin may withdraw the petition filed before the Central Administrative Tribunal, if he so desires. "

3. Counsel for the applicant submits the following for our consideration:-

(a) Time limit be prescribed for refund of the amount already recovered from the applicant in respect of ACP granted to him earlier.

(b) The cost be levied as the applicant has been unnecessarily forced to move the Tribunal.

(c) The counsel also made certain submissions about the treatment to the applicant by the Vice President of Income-tax Appellate Tribunal and submitted that these are unwarranted.

4. As regards refund of the amount recovered from the applicant, the respondents shall refund the same within four weeks from the date of receipt of a copy of this order.

5. As regards cost, the sober submission by the counsel for the respondents at the time of hearing dissuades us from levying the cost. The respondents have realized their error in passing the impugned order and as such they fully deserve exemption from levy of cost.

[Handwritten signature/initials over the last sentence]

6. Needless to mention that by virtue of order dated 09.02.2011, the order at Annexure A-3, A-5 & A-7 impliedly got quashed by the administration itself.

(Dated, this the 18th day of October, 2011.)



K. NOORJEHAN
ADMINISTRATIVE MEMBER



DR.K.B.S RAJAN
JUDICIAL MEMBER

SV