

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 364 of 1998

Tuesday, this the 30th day of January, 2001

CORAM

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

1. N. Nandakumaran,
Senior Accountant, Office of the
Deputy Director of Accounts,
GPO Complex, Thiruvananthapuram.
2. All India Postal Accounts Employees
Association represented by its
Sri. P. Raja Nayagam, Senior Accountant,
Office of the Deputy Director of Accounts,
GPO Complex, Thiruvananthapuram.Applicants

[By Advocate Mr. G. Sasidharan Chempazhanthiyil (rep.)]

Versus

1. Director General,
Department of Posts,
New Delhi.
2. Secretary,
Ministry of Finance,
Government of India, New Delhi.
3. Union of India represented by its
Secretary, Ministry of Communication,
New Delhi.Respondents

[By Advocate Mr. Govindh K. Bharathan, SCGSC (represented)]

The application having been heard on 30th of January, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A8, to direct the respondents to re-examine the case for grant of special pay to Junior Accounts Officer examination passed candidates in the Postal Department till they are promoted and to declare that Junior Accounts Officer examination passed candidates in the Postal Department are entitled to special pay at appropriate rates till they are promoted.

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2. Applicants say that on bifurcation of Post and Telegraph Audit and Accounts with effect from 1-4-1976 the 1st applicant was brought under the control of the 1st respondent. The 2nd applicant is an association recognized by the Government of India. 1st applicant passed the Junior Accounts Officers Examination (Part-II) in September, 1990 after passing Part-I. Considerations upon which special pay was granted to Auditors of the Post and Telegraph Audit and Accounts Wing who passed the Subordinate Accounts Service Examination namely delay in promotion and enhancement of usefulness are very much in existence in the Postal Department where at present an official who passes the Junior Accounts Officer examination will have to wait for several years for promotion as Junior Accounts Officer. Denying Junior Accounts Officer examination passed candidates the special pay is discriminatory. A8 is unsustainable.

3. Respondents resist the OA contending that after departmentalization with effect from 1-4-1976, a section of the staff in the P&T Audit and Accounts (under Indian Audit & Accounts) was brought under the Ministry of Communications (Postal Accounts Wing). The benefit of enhanced special pay @ Rs.35/- was made applicable to officials in the Postal Accounts Organization who passed the SAS Part-II Examination held prior to 1-4-1976 and who were awaiting promotion as Junior Accounts Officers (Postal) on 22-9-1979 vide Postal Directorate letter dated 1-5-1982. The incentive available to Clerks (LDCs/Auditors/UDC) for passing SAS examination as communicated by Comptroller & Auditor General of India as per letter dated 29-1-1979 was not extended to the applicant and such other officials since it was applicable only to Clerks/Auditors in the Indian Audit & Accounts Department and was not applicable

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to the officials transferred to the Postal Accounts Wing under the Ministry of Communications and passed Part-I and Part-II of Junior Accounts Officers (Postal) Examination (both Part-I and Part-II conducted by the Postal Accounts Wing of the P&T Department under the revised syllabus).

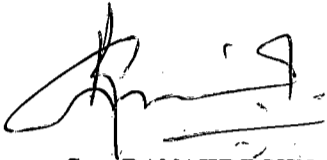
4. A8, the impugned order, says that the question of grant of special pay to Junior Accounts Officers Examination qualified candidates was again referred to the Ministry of Finance for reconsideration of their earlier decision denying the benefit and the Ministry of Finance after careful consideration has rejected the proposal. So, it is clear that the Ministry concerned has reconsidered the matter and has taken a decision in the matter which is not favourable to the applicants. The first relief sought by the applicants is to re-examine the same. What actually sought is not a re-examination, but a further re-examination. It cannot be a case of successive re-examination of the same case.

5. According to applicants, an official who has passed the Junior Accounts Officers Examination will have to wait for several years for promotion as Junior Accounts Officer. There is no vested right that one has got to get a promotion. Just because one may have to wait for sometime to get a promotion, that by itself is not a ground that could be justified in law for claiming special pay. We asked the learned counsel appearing for the applicants what is the legal basis on which the claim for special pay is put forward. We were not enlightened. For granting a relief the applicant should have a legal enforceable right. In the absence of the same, one cannot claim it and if claims, the Tribunal cannot grant it.

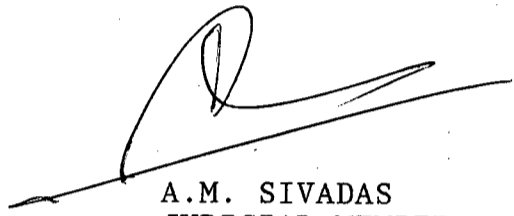
The claim of the applicants herein is not based on any legally enforceable right and, therefore, the applicants are not entitled to the reliefs sought for.

6. Accordingly, the Original Application is dismissed. No costs.

Tuesday, this the 30th day of January, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A8 True copy of the Letter No. 8(6)/87/PA-Admn.I dated -9-97 issued by the 3rd respondent.