

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.374/09

Tuesday this the 9th day of February 2010

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

P.Abdul Nazar,
S/o.late P.Abdul Rahiman,
Section Officer (Adhoc),
Office of the Accountant General (A&E),
Kozhikode Branch, Kerala.Applicant

(By Advocate Mr.Babu Joseph Kuruvathazha)

V e r s u s

1. Union of India represented by its Secretary,
Government of India, Ministry of Finance,
New Delhi.
2. Comptroller & Auditor General of India,
10, Bahadur Shah Zafar Marg,
New Delhi – 110 124.
3. Deputy Comptroller & Auditor General of India (P),
10, Bahadur Shah Zafar Marg,
New Delhi – 2.
4. Accountant General (A&E),
Kerala, Thiruvananthapuram.Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC[R1] & Mr.P.Nandakumar[R2-4])

This application having been heard on 9th February 2010 the Tribunal
on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed this Original Application seeking the following
reliefs :-



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1. To call for the records leading to Annexures A-3, A-7, A-8, A-9, A-11 and A-12 and set aside the same.
2. To call for the records leading to the adverse remarks made in Annexure A-4 Annual Confidential Report of the applicant and expunge the same.
3. To issue appropriate direction to the respondents to treat the days on which applicant participated in the general strike as eligible leave, and to disburse all consequential service benefits including promotion to the applicant forthwith.
4. To grant such other reliefs which this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case

and

5. To award costs to the applicant.

2. Annexure A-3 is an order dated 18.3.2008 passed by the respondents treating the period of unauthorised absence from duty as "Dies-non" as contemplated in proviso to Rule 17(1) of FR, which will not count for any service benefits including pension. Annexure A-7 is an order dated 28.4.2008 passed by the respondents rejecting his representation against the recording of adverse remarks in his confidential report for the period 2007-2008. Annexure A-8 which is a show-cause notice dated 21.2.2008 issued to the applicant under proviso to Rule 17(1) of FR for resorting to strike by absenting from work on 30.10.2007. Annexure A-9 is an order dated 4.4.2008 passed by the respondents treating the alleged unauthorised absence from duty on 30.10.2007 as "Dies-non" as contemplated in proviso to Rule 17(1) of FR, which will not count for any service benefits including pension. Annexure A-11 is a Memorandum dated 17.6.2008 issued by the respondents intimating the applicant that minor penalty of reduction to a lower stage by one stage for 3 years without



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cumulative effect with effect from 1.11.2007 has been imposed on him and, therefore, he could not be promoted as Section Officer during the currency of penalty, in terms of provisions mentioned in DoPT OM No.21/5/70. Estt (A) dated 15.5.1971, notwithstanding the findings of the DPC. Annexure A-12 is an Appellate Order dated 21.1.2009 rejecting the appeal of the applicant against the order of the competent authority rejecting his request for expunction of adverse remarks in the confidential report for the assessment year 2007-2008.

3. The respondents has filed their reply annexing therewith copies of the Annexure R-2(a) Memorandum dated 30.8.2007 proposing to take action against the applicant under Rule 16 of CCS (CCA) Rules, 1965. They have also filed Annexure R-2(c) order of the Appellate Authority dated 24.12.2008 modifying the order of the Disciplinary Authority to the extent of withholding one increment becoming due after issue of penalty order dated 11.10.2007 for two years without cumulative effect. The Appellate Authority has also ordered that the period of unauthorised absence and its treatment as "Dies-non" were not the subject matter of charge-sheet issued and the competent authority shall take separate administrative action on treatment of the periods of unauthorised absence on 19.12.2006, 20.12.2006, 22.12.2006, 17.4.2007, 3.8.2007 and 24.8.2007 as per extant instructions after following due procedures.

4. Counsel for the respondents has pointed out that the applicant has filed this OA in violation of Rule 10 of Central Administrative Tribunal (Procedure) Rules, 1987 which reads as under :-



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"10. Plural remedies. - An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another."

5. We have heard Shri.Sageer Ibrahim IK on behalf of Shri.Babu Joseph Kuruvathazha for the applicant and Ms.Resmi G Nair on behalf of Shri.P.Nandakumar for the respondents. In view of the above position, the counsel for the applicant submitted that he would like to challenge the Disciplinary Authority's order dated 11.10.2007 and the Appellate Authority's order dated 24.12.2008 filed by the respondents along with their reply. He has, therefore, sought the leave of this Court to withdraw the OA with permission to file appropriate applications in accordance with the prescribed procedure as contained in Administrative Tribunals Act, 1985 read with Central Administrative Tribunal (Procedure) Rules, 1987.

6. In view of the aforesaid submissions of the counsel for the applicant we grant permission to the applicant to withdraw this OA with liberty to file separate applications challenging various impugned orders. The OA is, accordingly, dismissed as withdrawn. There shall be no order as to costs.

(Dated this the 9th day of February 2010)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

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