

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.377/09

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**

Krishnan C.,
S/o.P.Karunakaran Nambiar,
Section Officer (Adhoc),
Office of the Accountant General (A&E),
Kerala Branch, Kozhikode.

...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 - 2.
3. Deputy Comptroller & Auditor General of India (P),
10, Bahadur Shah Zafar Marg,
New Delhi - 2.
4. Accountant General (A&E),
Kerala, Thiruvananthapuram.
5. Deputy Accountant General (A&E),
Kerala, Thrissur.

...Respondents

(By Advocate Mr.P.Nandakumar [R2-5])

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 :-



.2.

1. To call for the records leading to Annexures A-4, A-10, A-14 and A-16 and set aside the same.

2. To call for the records leading to the adverse remarks made in Annexure A-11 Annual Confidential Report of the applicant and expunge the same.

3. To issue appropriate direction to the 4th and 5th respondents to treat the days on which the applicant participated in the general strike as eligible leave and to regularise the service of applicant, with all consequential service benefits including promotion.

4. To grant such other relief which this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case and

and

5. To award the costs of the applicant.

2. Annexure A-4 is an order dated 11.10.2007 of the Disciplinary Authority imposing the penalty of reduction to a lower stage in the time scale of Rs.6500-10500 by one stage for three years without cumulative effect with effect from 1.11.2007. The said order also states that the period of unauthorised absence from duty on 19.12.2006, 20.12.2006, 22.12.2006, 26.12.2006, 17.4.2007, 3.8.2007 and 24.8.2007 be treated as "Dies-non" which will not count for any service benefits including pension. Annexure A-10 is an order of the respondents dated 18.3.2008, issued after considering the explanation of the applicant regarding his unauthorised absence from duty on 13.11.2007, 23.11.2007, 26.11.2007, 27.11.2007, 28.11.2007 and 30.11.2007, ordering to treat them 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-14 is a Memorandum dated 14.5.2008 issued by the respondents to the applicant stating that the competent authority has ordered that the adverse remarks recorded in the



Confidential Report for the period 2007-2008 be retained. Annexure A-16 is an Appellate Order dated 21.1.2009 rejecting his appeal against the order of the competent authority rejecting his request for expunction of adverse remarks recorded in the Confidential Report for the period 2007-2008.

3. The respondents in their reply submitted that the applicant had clubbed together three distinct and separate issues, viz. Disciplinary Action, Administrative Action and recording of adverse entry in the CR. They have also submitted that the 3rd respondent after detailed consideration of Annexure A-15 issued two separate orders, namely, Annexure A-16 order dated 21.1.2009 and Annexure R-2(a) order dated 24.12.2008. Counsel for the respondents raised the objection that the applicant has not followed the procedure as laid down in Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987 while filing this application. The said rule reads as under :-

"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."

4. The respondents has also produced copies of the order of the Appellate Authority 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 further held that as the period of unauthorised absence and its treatment as "Dies-non" were not the subject matter of charge-sheet issued, the competent authority shall take separate administrative action on



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treatment of the periods of unauthorised absence on 19.12.2006, 20.12.2006, 22.12.2006, 26.12.2006, 17.4.2007, 3.8.2007 and 24.8.2007 as per extant instructions after following due procedures.

5. In view of the aforesaid position, counsel for the applicant has sought the leave of this Court to withdraw this OA with liberty to file separate OAs in accordance with the prescribed procedure. We allow the request of the counsel for the applicant and, accordingly, dismiss this OA as withdrawn with liberty to the applicant to file separate OAs in accordance with the prescribed procedure, if so advised. 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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