

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.388/99

Monday this the 2nd day of July, 2001.

CORAM

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

P. Ussain
S/o Packer Mussaliar
Parappurath House
P.O. Palath, Kakkodi
Kozhikode - 673 611.

...Applicant

(By advocate Mr.Sivan Madathil)

Versus

1. Union of India rep. by Secretary to Government, Department of Posts, Ministry of Communications, Dak Bhavan, Sansad Marg New Delhi-110 001.
2. Director General (Postal), Dak Bhavan Sansad Marg, New Delhi.
3. Chairman, Postal Services Board Department of Posts, Ministry of Communications, Dak Bhavan Sansad Marg, New Delhi.
4. Chief Postmaster General Kerala Circle, Trivandrum.
5. Senior Superintendent of Posts Department of Posts. Calicut Division, Calicut.

...Respondents

(By advocate Mr.S.Krishnamoorthy, ACGSC)

The application having been heard on 2nd July, 2001, the Tribunal on the same day delivered the following:

O R D E R

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

Applicant seeks the following reliefs:

- 1) To issue necessary order or direction directing the respondents 1 to 5 to give effect to A.1 order with effect from 1.1.96 for the other benefits like basic monthly allowance enumerated in A1 order.
- 11) To issue necessary directions to respondents 1 to 5 to sanction the payment of ex-gratia gratuity to the applicant as per clause 2 (1) of A-1 with effect from 1.4.95, based on the recommendations of Justice Talwar Commission in consonance with the 5th Central Pay Commission.

iii) To issue necessary direction to respondents 1 to 5 to consider this applicant as deemed employee of R1 for all the purposes of all service benefits consequent to the effect of recommendation of Justice Talwar Committee.

iv) To grant such order or direction which this Hon'ble Tribunal may deem fit and proper.

2. The applicant retired on 30.6.98. as an ED employee.

In A-1 it is stated that payment of arrears may be made to the ED Agents for the period from 1.1.96 to 28.2.98 whereas other service benefits such as ex-gratia gratuity, office maintenance allowance, severance amount on retirement/death, severance amount on absorption on regular basis, time related continuity allowance etc. are made to come into effect from the date of issuance of the same i.e. 17.12.98. Prescribing another date contrary to the Commission's directions is against the very spirit of purpose behind the appointment of Commission. The service benefits are given to the employees who are at present working as ED employees. Payment of benefits strictly from the date of issuance of A-1 order i.e. 17.12.95 is discriminatory.

3. Respondents resist the OA contending that A-1, the Time Related Continuity Allowance (TRCA) was specifically made effective from 1.3.98 and not from the date of issuance of A-1 order. A-1 is a Government order issued in the name of the President of India. The Government has the power and freedom to decide the date from which a Government order is to be made effective. An identical question was considered by this Bench of the Tribunal in OA 158/99 and the said OA was dismissed.

4. R-1 is the copy of the order passed by this Bench of the Tribunal in OA 158/99. The findings therein squarely apply to the facts of the case at hand. Relying on K.L.Ratheee V. Union of India & Ors. JT 1997 (5) 698, Union of India and ors.

V. Tejram Parashramji Bombhate & Ors. JT 1991 (2) S.C. 572,
and State Fishery Officers' Association W.B. and Another
Vs. State of W.B. and Another JT (1997) 8 SCC 65 , the said
OA was dismissed.

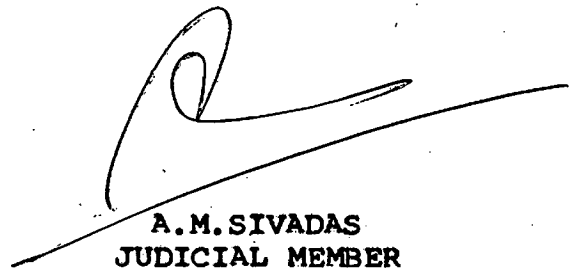
5. Following the ruling in OA 158/99, this OA is only to
be dismissed.

6. Accordingly the OA is dismissed.

Dated 2nd July, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A-1 True copy of the order No.H4/Rlgs dated 23.12.98 issued
by the 5th respondent.
- R-1 True copy of the order in OA 158/99 dated 5.3.99 of
the CAT, Ernakulam Bench.