

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1072/98.

Date of Decision : 18.12.1998.

Jeronimo J. Velho, Petitioner.

Shri S. S. Karkera, Advocate for the
Petitioner.

VERSUS

Union Of India & Anr., Respondents.

Shri R. K. Shetty, Advocate for the
Respondents.

CORAM :

Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

(i) To be referred to the Reporter or not ? *W*

(ii) Whether it needs to be circulated to other *W*
Benches of the Tribunal ?

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1072/98

Dated this Friday, the 18th day of December, 1998.

CORAM :

Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.
Hon'ble Shri D. S. Baweja, Member (A).

Jeronimo J. Velho,
Electrician (M.V.).

Residing at -

Caran Zalem Numxint at P.O.
Caranzalem,
Taluka : Tiswadi,
District Ilhas,
South Goa.

... Applicant

(By Advocate Shri S.S. Karkera)

VERSUS

1. Union Of India through
The Director General of
(Electrical Mechanical
Engineers),
Master General of Ordnance
Branch, Army Headquarters,
New Delhi - 110 011.
2. The Officer Commanding
Station Workshop (E.M.E),
Bambolim Camp,
Goa - 403 201.

... Respondents.

(By Advocate Shri R. K. Shetty)

: OPEN COURT ORDER :

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

In this application, the applicant is challenging the fixation of salary and order for recovery as per orders dated 01.12.1998 and 05.12.1998 (Exhibits 'A' and 'B' to the O.A.). The applicant has challenged the impugned

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orders on various grounds. Today, Shri R. K. Shetty takes notice on behalf of the respondents and opposes the application.

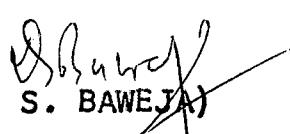
2. After hearing both the sides, we find that the impugned orders have been passed by the respondents without hearing the applicant and without giving any show cause notice. The respondents stand is that the applicant was wrongly appointed on a higher scale of pay and, therefore, they have realized the mistake and they want to recover the same. In all fairness, the applicant should have been heard before passing the impugned order. However, there is no necessity to direct the respondents to issue show cause notice to the applicant, since after coming to know of the impugned order, the applicant himself has given a detailed representation dated 08.02.1998 objecting to the impugned order dated 01.12.1998 about fixation of pay and consequent recovery. The Learned Counsel for the respondents says that as on today, he has no instructions whether the respondents have already passed any order on the representation dated 08.12.1998 given by the applicant.

3. Since the applicant has raised many points in his representation, we feel that this is a matter in which the impugned order should be stayed giving liberty to the respondents to pass a speaking order on the representation of the applicant dated 08.12.1998. Since the applicant has only given representation regarding the earlier order dated 01.12.1998 and he has not yet given any representation regarding the

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order dated 05.12.1998, we give liberty to the applicant to send one more representation in addition to the representation dated 08.12.1998 taking all defences open to him regarding the impugned orders dated 01.12.1998 and 05.12.1998. On receiving such additional representation, the respondents shall dispose of both the representation by a speaking order, as per rules. Till such orders are passed by the competent authority, we restrain the respondents from enforcing the two impugned orders dated 01.12.1998 and 05.12.1998.

4. In the result, the O.A. is disposed of at the admission stage itself with a direction to the respondents to dispose of the applicant's representation dated 08.12.1998 and additional representation that may be submitted by the applicant within four weeks from today and till such representation is disposed of by the competent authority by a speaking order, the respondents should not give effect to the two impugned orders dated 01.12.1998 and 05.12.1998. Needless to add that in case any adverse order is passed by the competent authority, the applicant has every right to challenge the same according to law. In the circumstances of the case, there will be no order as to costs.


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.