

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE THOTTATHIL B. RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE A. MUHAMED MUSTAQUE

WEDNESDAY, THE 19TH DAY OF MARCH 2014/28TH PHALGUNA, 1935

WP(C).No. 9486 of 2009 (S)

OA. NO. 487/2006 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

.....

PETITIONER(S):

1. K.N. PURUSHOTHAMAN, SENIOR TAX ASSISTANT,
O/O. THE CHIEF COMMISSIONER OF INCOME TAX,
2ND FLOOR, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 682 018.
2. BEENA JACOB, SENIOR TAX ASSISTANT,
O/O. THE CHIEF COMMISSIONER OF INCOME TAX,
2ND FLOOR, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 682 018.
3. C.P. RAJESH, SENIOR TAX ASSISTANT,
O/O. THE CHIEF COMMISSIONER OF INCOME TAX,
2ND FLOOR, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 682 018.
4. PADMAJA HARIKRISHNAN, TAX ASSISTANT,
O/O. THE SENIOR AUTHORIZED REPRESENTATIVE,
KENDRIYA BHAVAN, KAKKANAD, COCHIN.
5. JAYAKUMAR G.R., TAX ASSISTANT,
O/O. THE CHIEF COMMISSIONER OF INCOME TAX,
2ND FLOOR, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 682 018.
6. SREEKUMAR P.G., TAX ASSISTANT,
O/O. THE CHIEF COMMISSIONER OF INCOME TAX,
2ND FLOOR, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 682 018.

BY ADV. SRI. ELVIN PETER P.J.

RESPONDENT(S):

1. CHIEF COMMISSIONER OF INCOME TAX,
KOCHI, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI - 18.



WP(C).No. 9486 of 2009 (S)

2. CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON,
NORTH BLOCK, NEW DELHI.
3. UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO
GOVERNMENT OF INDIA, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, NEW DELHI.

BY ADV. SRI.P.PARAMESWARAN NAIR, ASST. S.G. OF INDIA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-03-2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs. ✓

THOTTATHIL B.RADHAKRISHNAN
&
A.MUHAMED MUSTAQUE, JJ.

W.P.(C) No.9486 of 2009

Dated this the 19th day of March, 2014

JUDGMENT

Thottathil B.Radhakrishnan, J.

1. Petitioners were the applicants before the Tribunal. They challenge the dismissal of their applications on an issue relating to the date of effect of certain provisions in the Assured Career Progression(ACP) Scheme.
2. Petitioners were Lower Division Clerks in the scale of ₹3050-4590 in the Income Tax Department. They were given the first financial up-gradation in terms of the ACP Scheme on different dates before 30.3.2001, on which date, the cadre of LDCs were merged with that of the Tax Assistant. The petitioners, therefore, contended that they were entitled to the scale of ₹5000-8000 from 30.3.2001, the date of the merger and not from the date of their promotion as Senior Tax Assistants, which was only on 1.6.2006. While the

establishment argued that the said claim is unsustainable, the clarification issued by the competent authority at serial No.52 in Annexure-A22 O.M. answers this issue. It specifically says that if as a restructuring, feeder and promotional posts are merged to constitute one single level in the hierarchy, then in such a case, next financial upgradation will be in the next hierarchical grade above the merged levels and if any promotion has been allowed in the past in grades, which stand merged, it will have to be ignored.

3. Therefore, the claim of the petitioners stands. We see that the learned Tribunal did not notice the relevance of the particular date 30.3.2001 and the fact that the first financial upgradations were granted to the petitioners before that date. We say so because, as seen from paragraph 6 of the decision of the Tribunal it proceeds as if merger was treated for a particular period. The merger has to take effect from a particular date. Still, fixation for such upgradation in terms of merger will also operate from specific dates.

4. For the aforesaid reasons, we are of the view that the ends of justice require that the Tribunal's order is set aside and appropriate orders are issued hereby.

Accordingly, in the result, Ext.P5 is set aside and it is declared that the petitioners are entitled to the scale of ₹5000-8000 with effect from 30.03.2001, the date of merger of LDC and Tax Assistant-Cadres. Further upward placement shall also be made in terms of this declaration. The monetary reliefs in terms of this judgment, as may be found available in the case of each of the petitioners shall be released by the competent authority, within a period of three months from the date of receipt of a copy of this judgment. The original petition is ordered accordingly.

Sd/-

THOTTATHIL B.RADHAKRISHNAN, JUDGE

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In