

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Miscellaneous Application No.180/00291/2020
in Original Application No.180/00248/2018**

Monday, this the 21st day of September 2020

C O R A M :

**HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER**

1. Union of India represented by the Secretary to Government,
Ministry of Home Affairs, Internal Security, North Block,
Central Secretariat, New Delhi – 110 001.
2. The Director,
Intelligence Bureau Headquarters,
Ministry of Home Affairs, Internal Security, North Block,
Central Secretariat, New Delhi – 110 001.
3. The Director,
Intelligence Headquarters,
Ministry of Home Affairs, Internal Security, North Block,
Central Secretariat, New Delhi – 110 001.
4. The Assistant Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs, Government of India,
No.572, Montfort House, Vazhuthacaud,
Thiruvananthapuram – 695 014. ...Misc. Applicants

(By Advocate Mr.P.G.Jayan, ACGSC)

v e r s u s

Ajith.T.R.,
S/o.late Radhakrishnan.T.R.,
Trainee, Subsidiary Intelligence Bureau,
Ministry of Home Affairs, Government of India,
No.572, Montfort House, Vazhuthacaud,
Thiruvananthapuram – 695 014.
Residing at A301, Indravihar Quarters,
Vazhuthacaud, Thiruvananthapuram – 695 014. ...Misc. Respondent

(By Advocate Mr.Jayakrishnan.D)

This Misc. Application having been heard on 14th September 2020,
the Tribunal on 21st September 2020 delivered the following :

ORDER

Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

The applicants in the M.A., who are the respondents in the O.A., have filed this application seeking clarification as to how the period of termination of the respondent in the M.A., who is applicant in the O.A., be regularized for the period between 29.11.2017 and 8.4.2019.

2. It is submitted that the Misc. Respondent/applicant in the O.A., Shri.Ajith.T.R., was appointed under the compassionate ground scheme and was required to acquire the qualification of matriculation within the time limits specified in Annexure A-3. It was specified in Annexure A-3 that matriculation qualification was to be acquired by the appointee within five years of his appointment. It was submitted in the O.A that though the applicant had obtained matriculation within the time limit prescribed in Annexure A-3, the authorities had reckoned his date of appointment from the date of Annexure A-1 ie., 29.11.2010 which order was, infact, superseded by the said Annexure A-3 dated 9.12.2014. The impugned order in the O.A at Annexure A-18 dated 28.11.2017 terminated his service, against which he approached this Tribunal.

3. This Tribunal on 5.2.2019, after perusing the records and hearing the parties allowed the O.A on merit. Annexure A-17 dated 22.11.2017 and Annexure A-18 dated 28.11.2017 were set aside and it was directed that the respondents re-engage the applicant with immediate effect in pursuance of Annexure A-3 order, in the light of Annexure A-12, Annexure A-15 and

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Annexure A-16, declaring him passed in the matriculation exam. Further, it was also directed that the order shall be complied with within a period of 60 days from the date of receipt of a copy of the order.

4. The Misc. Applicants/respondents in the O.A have stated that the reinstatement of the Misc.Respondent/applicant in the O.A was approved by the competent authority in compliance to the orders of this Tribunal. He was directed to report for duty at the office of the 4th respondent and he has accordingly done so on 9.4.2019, a copy of which is at Annexure M.A-2. Misc. Applicants/respondents in the O.A now seek a clarification as to how the intervening period of termination of the Misc. Respondent/applicant in the O.A from 29.11.2017 to 8.4.2019 is to be treated.

5. Misc. Respondent/applicant in the O.A has filed an objection to this M.A stating that there is no confusion or clarification needed as the O.A was allowed and his termination vide Annexure A-18 was found to be illegal. He has stated that the period has to be regularized as duty for all purposes. Further, he has pointed out that this M.A has been filed after 496 days of the order of this Tribunal and laches, negligence and delay also disentitles the Misc. Applicants/respondents in the O.A from seeking any further relief vide this M.A.

6. We have heard counsel for both the parties to the M.A and examined the records. The order of this Tribunal dated 5.2.2019 in O.A.No.180/248/2018 was allowed on merit. The Orders at Annexure A-17

dated 22.11.2017 and Annexure A-18 dated 28.11.2017 were also set aside. The respondents were directed to re-engage the applicant with immediate effect in pursuance of Annexure A-3 order. The order is clear and it does not appear to us that there should be any confusion or doubt created. Further, we note that Rule 25 of the Central Civil Services (Pension) Rules, 1972 states as follows :

25. Counting of past service on reinstatement.

(1) A Government servant who is dismissed, removed or compulsorily retired from service, but is reinstated on appeal or review, is entitled to count his past service as qualifying service.

(2) The period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement, and the period of suspension, if any, shall not count as qualifying service unless regularized as duty or leave by a specific order of the authority which passed the order of reinstatement.

7. It is our view that as held in many other cases by various Courts, a plain meaning of the provisions of the Rules have to be followed. While this Court may have directed for the re-engagement of the Misc. Respondent/applicant in the O.A, the 'authority' as indicated under Rule 25 (2), is quite clearly the appropriate Government department/organization which has passed the order of reinstatement and not anyone else. An examination of Annexure M.A-2 reveals that SIB, Thiruvananthapuram had passed a Memo No.1/PF(T)/2010 (38)-II dated 8.4.2019 directing the applicant to report for duty at SIB Headquarters, Thiruvananthapuram in pursuance of the order of this Tribunal. The Rule in question does not admit any ambiguity and it is not within this Tribunal's purview to adopt a process of reasoning or further interpretation. The Rule states that the 'authority'

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which passed the order of reinstatement will pass the necessary orders on how to treat the period of interruption. We also note that the Misc. Applicants/respondents in the O.A have apparently not gone on appeal etc. in the matter before the Hon'ble High Court of Kerala and thus they have, in effect, accepted the order of this Tribunal and have reinstated the official.

8. As such, we do not believe that there is any further reason for us to clarify anything more in this regard. The Misc. Applicants may take an appropriate decision regarding treating the period of interruption in service in the light of the appropriate Rules governing such situations. The M.A is accordingly closed with a direction that as the matter has already been considerably delayed, necessary orders relating to the treatment of the said period of interruption should be passed within a period of two months from the date of receipt of a copy of this order. No costs.

(Dated this the 21st day of September 2020)

K.V.EAPEN
ADMINISTRATIVE MEMBER

P.MADHAVAN
JUDICIAL MEMBER

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List of Annexures in M.A.No.180/291/2020 in O.A.No.180/00248/2018

- 1. Annexure MA-1** – A copy of the order in O.A.No.248 of 2018 dated 5.2.2019 of Hon'ble CAT, Ernakulam Bench.
 - 2. Annexure MA-2** – A copy of the Joining Letter signed by the applicant dated 9.4.2019.
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