

**Central Administrative Tribunal
Ernakulam Bench**

OA/181/00035/2015

Thursday, this the 28th day of January, 2021.

CORAM

Hon'ble Mr.P.Madhavan, Judicial Member
Hon'ble Mr.K.V.Eapen, Administrative Member

1. P. K.Achuthan, aged 78 years
S/o Late K.R.Pillai
Retired Headmaster of Govt. JBS (N), Amini
Union Territory of Lakshadweep
Now residing at Sneham, Karthikappally
Vadakara, Kozhikode-673 542
2. K.Narayanan, aged 71 years
S/o Late Kunhiraman
Retired Circle Inspector of Police
U.T. of Lakshadweep
now residing at Sreyas, House No.EP-12/137
Near EMS Vayanasala, Aduthila
Payangadi, Kannur-670 303
3. Lakshadweep Mainland Recruits
Pensioners Association (LMRPA)
represented by its General Secretary K.Narayanan
Residing at Sreyas, House No.EP-12/137
Near EMS Vayanasala, Aduthila, Payangadi
Kannur-670 303.

Applicants

(By Advocate: Mr. S.Sujin)

Versus

1. The Administrator
Union Territory of Lakshadweep
Kavaratti-682 555

2. Union of India represented by
the Secretary to Government of India
Ministry of Home Affairs
North Block, New Delhi-110 001.
3. The Chief Manager, Syndicate Bank
Central Processing Centre, Head Office
Manipal, Udupi, Karnataka – 576 104
4. The Chief Manager, State Bank of India
LMS Compound, Main Block, Vikas Bhavan
Thiruvananthapuram- 695 033
5. The Chief Manager, Canara Bank
Chitrapur Mutt Complex, 15th Cross
Malleswaram, Bangalore, Karnataka-560 001
6. The Chief Manager, Indian Overseas Bank
763, Anna Salai, Chennai, Tamil Nadu – 600 002
7. The Senior Accounts Officer
Central Pension Accounting Office
Trikoort II, Bhikaji Cama Place
New Delhi – 110 066

Respondents

By Advocate: Mr.S.Manu for R1, Mr. N. Anilkumar, Sr. PCGC for R2 and Mr.S.R.Kalkura for R3)

This OA having been heard on 28th January, 2021, the Tribunal delivered the following order on the same day:

ORDER (oral)

By P.Madhavan, Judicial Member

Counsel for the applicant and counsel for the respondents are present. Both sides heard.

2. The applicant nos.1 and 2 are pensioners, retired from the service of the Lakshadweep Administration and the 3rd applicant is an organisation which represents several such pensioners of the Lakshadweep Administration. Considering the remoteness of the workplace, all the mainlanders who were thus recruited to the island service were granted a special emolument called Island Special Pay as part of their basic pay which was being considered as pay for all purposes including pension and other benefits under the relevant rules governing the pay and allowances of the Central Government employees. When the said Island Special Pay was not considered for fixing the pension, the same was subject matter of various litigations. All the judicial forums have found the issue in favour of the employees. The Supreme Court also turned down the contentions of the department and passed orders in favour of the employees. The applicants are aggrieved by the steps are now being taken by the Lakshadweep Administration to recover huge amounts from the applicants and other pensioners towards excess pay/pension drawn by them on account of the Island Special Pay without amending the Rules. Hence he prays for the following reliefs:

"(i) To call for the records leading to Annexure A7 dated 20.4.2013 and Annexure A8 dated 30.6.2014 and quash the same.

(ii) Grant such other and further reliefs as are just, proper and necessary or this Hon;ble Tribunal may deem fit to grant; and

(iii) Award to the applicant the costs of these proceedings."

3. When the matter came up for consideration, counsel for the respondents

submitted that the Hon'ble High Court has passed an order in OP(CAT) No.2379 of 2013 on 15.01.2020 in similar matters and the said decision is applicable to the present case also. Counsel for the applicant also submits that the matter is squarely covered by the decision of the Hon'ble High Court. The Hon'ble High Court has issued following directions:-

" i) The petitioners' pay as on 31.12.1995 shall be reckoned including the Special Pay in the Basic pay.

ii) The pay fixation as on 1.1.1996 on implementation of Vth CPC shall be made reckoning the pre-revised pay as on 31.12.1995 which includes the component of Special pay in the Basic Pay.

iii) After fixation of pay of the petitioners as on 01.01.1996 the increments shall be granted as entitled to them and their last pay drawn reckoned, notionally, as on their respective dates of retirements. Their pension shall stand revised in accordance with the determination of last pay as directed by us herein above.

iv) It is made clear that since the petitioners have sought for only fixation of their last pay drawn in accordance with the order of the Tribunal, we deem it fit that there need be no arrears of pay disbursed to the petitioners for the period while they were in service. The fixation as on 1.1.1996 as also the determination of last pay drawn shall be notional.

v) The arrears of pension as per the determination directed by us shall be paid in its entirety since no delay can be attributed on the part of the petitioners since the implementation of Annexure A2 order came only in the year 2009 by virtue of Annexure A7 order. Immediately there after Annexure A8 communication was issued in the year 2011 by the Union of India against which a representation was filed and the aforesaid O.A moved in the year 2011 itself.

vi) *The entire arrears along with any commutation, if permissible at this distance of time, shall be paid within a period of six months from the date of receipt of certified copy of this judgment, to the petitioners in accordance with their entitlement. "*

4. **The applicants herein are also entitled to get the benefits. Hence the respondents are directed to consider the claim of the applicants in the light of judgment in OP(CAT) 2379 of 2013 and pass appropriate orders on the basis of the dictum laid down in the above judgment by the Hon'ble High Court within a period of 6 months from the date of receipt of a copy of this order.**

5. Interim order staying recovery will become absolute. The Original Application is disposed of as above. No costs.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

Annexures referred to by the applicants in the OA

Annexure A7: Copy of order dated 20.4.2013 issued by the Secretary, Finance.

Annexure A8: Copy of order dated 30.6.2014 issued by the Under Secretary, Ministry of Home Affairs, Govt of India.

Annexure A1: Copy of the order in OA No.618/2002 dated 22.11.2004.

Annexure A2: Copy of the judgment in W.P.(C) No.22461/2005 dated 2.1.2008.

Annexure A3: Copy of the order dated 11.11.2008 issued by the Secretary (Finance) of the Administration of U.T.

Annexure A4: Copy of the order dated 29.11.2009 issued by the Secretary (Finance) of the Administration of U.T.

Annexure A5: Copy of the letter dated 10.1.2011 of the Under Secretary to Govt. of India, Ministry of Home Affairs.

Annexure A6: Copy of the common order in OA Nos.1065/2010, 247/2011, 808/2011 and 1059/2011 dated 4.7.2012.

Annexure A9: Copy of the list of Members from whom amounts by way of alleged excess pension is due to the administration.

Annexures to the reply statement

Annexure R1(a): Copy of the common order passed in MA No.854/2012 in OA No.1065/2010 and connected cases.

Annexure R1(b): Copy of the common order in RA No.06/2013 and 07/2013 dated 9.4.2013

Annexure R1(c): Copy of the relevant extract of the communication to the Headmaster, Govt. High School, Amini.

Annexure R1(d): Copy of the communication F.No.PEN/64/96-PAO(L) dated 8.2.1997.

Annexure R1(e): Copy of the declaration dated 6.9.2002 communicated to P AO.

Annexure R1(f): Copy of the communication F.No.Pen/64/96-97 PAO (L) dated 3.7.2003.

Annexure R1(g): Copy of the communication dated December 2008 to the Pay and Accounts Officer, Central Pension Accounting Officer

Annexure R1(h): Copy of the order No.850019700039/1376551/A2 dated 1.10.2013

Annexure R1(i): Copy of the OM dated 15.7.2014.

Annexures with MA/181/00058/2015.

Annexure A10: Copy of the pension slips issued to Shri Sreedharan P.R.

Annexure A11: Copy of the pension slip issued to A.Kumaran

Annexure A12: Copy of the representation submitted by the 3rd applicant.

Annexure with MA/181/00400/16

Annexure A15: Copy of the order dated 13.11.2015 issued by the 1st respondent.

Annexures with MA/181/00261/16

Annexure A13: Copy of the recovery details in respect of Smt.K.V.Devayani(PPO No.850010100924/Pension a/c No.340102030010095 issued by the Union Bank of

India.

Annexure A14: Copy of the Pension Payment Pay slip for November 2015 of the pensioner Smt.K.V.Devayani.

Annexures with additional rejoinder

Annexur A16: Copy of the order in OA No.507/1994 dated 23.6.1994.

Annexure A17: Copy of the list of Members of Lakshadweep Mainland Recruits Pensioners' Association.

Annexure with MA/181/00692/17

Annexure A18: Copy of the calculation sheet of the revision proposed in the pension of Shri Sreedharan issued by the State Bank of India.

Annexure with MA/181/345/2019

Annexure R3(a) - The original computer printout of the statement of account of Mr.Ravindra Naik K dated 25.7.2019

Annexure R3(b) - The original computer printout of the statement of account of Ms.Anitha C.K dated 25.7.2019.

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