

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No.181/00162/2019

Monday, this the 7th day of September, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

K.Koya

Retired Police Constable B No.331,

Reenaz Rehnaz Manzil,

South Bandaram, Minicoy Island,

Union Territory of Lakshadweep.

Applicant

(Advocate: Mr.V.Ajith Narayanan)

Versus

1. The Superintendent of Police
Lakshadweep Police, Kavaratti Island
Lakshadweep Administration
Govt of India, Kavaratti Island
Union territory of Lakshadweep
Pin Code 682 555.
2. The Accounts Officer (Pension)
Principal Pay & Accounts Office,
Secretariat, Kavaratti Island,
Union Territory of Lakshadweep,
Pin Code 682 555.
3. The Deputy Superintendent of Police,
Lakshadweep Police, Kavaratti Island,
Lakshadweep Administration,
Govt of India, Kavaratti Island,
Union Territory of Lakshadweep,
Pin Code 682 555.
4. The Administrator of Union Territory of Lakshadweep,
Kavaratti, Union Territory of Lakshadweep,
Pin Code 682 555.
5. Union of India
represented by the Secretary of Home Affairs
New Delhi-110 001.

Respondents

(Advocate: Mr.S.Manu)

This OA having been heard on 27th August, 2020, the Tribunal delivered the following order on 07.09.2020:

ORDER

P.Madhavan, Judicial Member

The OA is filed seeking the following reliefs:

(i) *Direct all the respondents to disburse the balance retirement benefits and balance pensionary benefits with all consequential and incidental benefits thereto with 18% penal interest, to the applicant, with retrospective effect, from the date of his retirement forthwith, after quantifying the same and also to pay the full pensionary benefits etc to the applicant in future.*

2. The applicant's case is that he had retired as a Police Constable from Minicoy Police Station on 28.2.2017 as per order of the Superintendent of Police, Kavaratti. According to the applicant, as per order No.18/5/2005-Pol/4209 dated 19.10.2016, the Superintendent of Police, Lakshadweep had ordered to regularize the applicant's absence from duty as extra ordinary leave with loss of pay for all purposes. A true copy of the order is produced as Annexure A1. According to him, all the pension papers were forwarded to the authorities through proper channel well in advance for issuing pension to him. Subsequently the Dy S.P., Lakshadweep, Kavaratti had asked him to file a revised Form 5 & 7 for quick and satisfactory disposal of pension papers to the Central Pension Accounting Office, New Delhi. The applicant prepared the above papers and forwarded to the officers through proper channel in time. Subsequently, on his retirement, he was informed that his service and office records are found incomplete on verification and it was also mentioned that the service register Vol. I & II are forwarded for verifying and recommending for provisional pension at the earliest. The said letter is produced as Annexure A4. Even though he gave a representation for speedy disposal of all pensionary benefits, it was not done by the respondents. Subsequently, on 17.3.2017 his residual deposit of Rs.2,50,921/- was ordered to be disbursed to him. According to

the applicant, at present, he is getting only a minimal pension of Rs.9860/- per month instead of a monthly pension of around Rs.25000/-. He ought to have been granted pensionary benefits to the tune of Rs.30 Lakh (approximately). According to him, the non-payment of full pension and and full terminal benefits was not due to any fault on the part of the applicant. The main reason for denial of the pensionary benefits was that applicant's service register and service records are incomplete and this was mainly caused due to the fault of the concerned higher officers who were the custodians of the applicant's service register and office records. He cannot be penalized for the fault of higher officers. He is the breadwinner of a big family and he is suffering from cardiac problems too. The applicant had earlier filed OA No.56/2018 before this Tribunal for a direction to the respondents to disburse the balance retirement benefits and balance pensionary benefits and the Tribunal had disposed of the above OA by directing the respondents to consider his representation and dispose of the same by a speaking order within a period of two months. In furtherance of the said direction, the respondents had informed him as per letter dated 11.4.2018 that *“in the light of the above, full pension and and other retirement benefits due to Sri K.Koya, PCB No.331 (Rtd) can be released only after taking decision on the regularization requests submitted by the incumbent and curing the defect in the service book, if possible, in accordance with law as expeditiously as possible”*. According to the applicant, the first respondent has not initiated any steps to release the full pension.

3. The respondents 1 to 4 entered appearance and filed a detailed reply. They admitted that the applicant was a former police constable under the Lakshadweep Police Department and he retired from service on 28.2.2017. He had earlier filed an OA seeking a direction to the respondents to disburse the balance pensionary benefits. The applicant is not entitled to get the reliefs as prayed for. While

verifying the service records, it was revealed that the applicant used to habitually over stay after leave without the permission of the competent authority and he was warned on several occasions. The applicant while working at Chetlat Police Station was relieved on 10 days' casual leave with intervening holidays of 20.6.2006. He rejoined duty only on 3.2.2007 overstaying for 212 days on medical ground without the permission from the competent authority. There were several occasions where the applicant had stayed without proper leave. It was found that the applicant had overstayed leave without having leave in his leave account. According to the respondents, there is no deliberate delay on the part of the department in sanctioning the pension. Before granting pensionary benefits, his service verification, leave accounting, over-payment etc have to be scrutinized and the department cannot fill up pension form VII for grant of pensionary benefits without up-to-date service records and pay fixation during the relevant period. The leave account of the applicant is still incomplete and there is break in service. The pension file of the applicant is already submitted to the higher authorities after preparing leave salary arrears, increment and normal pension etc. It, may, however, be noted that the applicant was given provisional pension of Rs.9860/- in the meanwhile. Therefore, the respondents' request that the process of verifying the service records of the applicant has to be completed and only thereafter pensionary benefits can be settled.

4. We have heard both sides. On a perusal of the pleadings, we find that there is no dispute regarding the employment of the applicant as police constable and there is no dispute regarding the retirement on superannuation in the year 2017. Both sides agree that the applicant was granted only provisional pension till date. The main reason submitted by the respondents in this case is that the service records of the applicant are incomplete and the applicant had a habit of overstaying the leave

granted to him on many occasions. The applicant was not having sufficient leave in his account. This has happened many times and the records have to be collected from various places and proper order regularizing the leave etc has to be prepared and forwarded for sanctioning the final pension. It is only because of that the pension is not released to the applicant. From the above reply, it can be seen that there is no serious dispute regarding the eligibility of pension to the applicant. The applicant is entitled to get his pension and pensionary benefits without much delay. Here the delay caused is mainly due to the failure of the department in collecting the details of his leave and overstayal period etc. More than two years have elapsed after his retirement and only a meagre provisional pension is granted and it is high time that the respondents sanction his eligible pension and other pensionary benefits.

5. The counsel for the applicant submitted that necessary direction may be given to the respondents to grant the pensionary benefits at the earliest.

6. As there is no dispute regarding the eligibility of pension, we deem it appropriate to direct the respondents to collect all the required documents for granting pension within a period of three months from the date of receipt of copy of this order and pass necessary orders releasing the pensionary benefits entitled to the applicant.

7. The applicant has demanded interest on the pensionary benefits. On a perusal of the records and the documents produced, we find that the applicant as well as the respondents are at fault for not having the proper updated service records in this case. So there is no question of granting interest on the monetary benefits at this stage. But we also find that the applicant retired in the year 2017 and even in 2020 the procedure for granting the pension is not complete.

8. In the circumstances, we direct the competent authority to process the pension papers within a period of three months and grant the pensionary benefits to the applicant. In the event of failure, the respondents will be liable to pay interest @ 12% per annum for the delay in granting the pensionary benefits to the applicant. OA stands disposed of.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

aa.

Annexures filed by the applicant:

Annexure A1: Copy of the order F No.18/5/2005-Pol/4209 dated 19.10.2016 issued by Superintendent of Police, UT of Lakshadweep (Police Department), Kavaratti.

Annexure A2: Copy of the Office Memorandum F.No.18/12/88-Estt (Pol) dated 15.1.17.

Annexure A3: Copy of the Relieving Order F No.1/09/2017-McyPS dt.28.2.2017, on superannuation issued by Officer-in-Charge, Police Station, Minicoy.

Annexure A4: Copy of the letter F.No.18/12/88 Estt (Pol)/1319 dated 25.3.2017 from the Deputy Superintendent of Police, Kavaratti Island, Pin Code – 682 555 to the Accounts Officer (Pension), Principal Pay & Accounts Office, Secretariat, Kavaratti.

Annexure A5: Copy of the letter dated 3.3.2017 from the applicant to the Superintendent of Police, UT of Lakshadweep, Kavaratti (through proper channel).

Annexure A6: Copy of the letter F.No.1/35/2017-PAO/GPF/1453 dated 8.3.2017 from the ` Accounts Officer (Pay & Accounts), Office of the Pay & Accounts Officer, Kavaratti to the Deputy Superintendent of Police, UT of Lakshadweep, Kavaratti.

Annexure A7. Copy of the representation dated 9.10.2017 from the applicant to respondents 1 to 4.

Annexure A8: Copy of the acknowledgment card issued from the 1st respondent.

Annexure A9: Copy of the acknowledgment card issued from the 2nd respondent.

Annexure A10: Copy of the acknowledgment card issued from the 3rd respondent.

Annexure A11: Copy of the final order dated 23.1.2018 in OA/181/00056/2018 of CAT, Ernakulam.

Annexure A12: Copy of the order F.No.1/01/2018 PA (Pol) dated 11.4.2018 issued by the 1st respondent.