

**Central Administrative Tribunal
Ernakulam Bench**

**O.A Nos.180/00405/2021, 180/427/2021, 180/407/2021, 180/406/2021,
& 180/425/2021**

Friday, this the 17th day of September, 2021

CORAM:

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

O.A No.180/00405/2021

P.K.Madhu, I.P.S
Superintendent of Police
Thiruvananthapuram Rural, Thiruvananthapuram
Aged 59 years, S/o.Krishnan Nair
Residing at Karthika House
East Gate, Ettumanoor P.O.,
Kottayam District, Pin – 686 562 - Applicant

(By Advocate: Mr.K.R.Radhakrishnan Nair)

Versus

1. State of Kerala
Represented by the Chief Secretary
Government Secretariat
Thiruvananthapuram – 695 001
2. Union of India
Represented by its Secretary
Ministry of Home Affairs
New Delhi – 110 001
3. The Accountant General (A&E)
Office of the Accountant General, Kerala (A & E)
Thiruvananthapuram – 695 001 - Respondents

(By Advocate: Mr.Anil Prasad, ACGSC for R2 , Mr.Imam Grigorios Karat, G.P for R 1 & 3)

O.A No.180/427/2021

P.S. Sabu, I.P.S, aged 60,
S/o P.K. Sudhakara Das,

Superintendent of Police, SSSB,
Ernakulam Range, (Retired)
Residing at Aji Nivas, Padeasouth, Karunagappally,
690518

- Applicant

(By Advocate: Mr. P. V. Mohanan & Mr. P.N. Biju)

Versus

1. Union of India represented by the Secretary,
Ministry of Home Affairs, North Block
New Delhi – 110001.
2. The State of Kerala represented by its
Chief Secretary, Government of Kerala,
Thiruvananthapuram – 695001.
3. The Accountant General (A&E),
Office of the Accountant General,
State of Kerala, Thiruvananthapuram – 695001

- Respondents

(By Advocate: Mr. N. Anilkumar, SCGSC for R1 & Mr. Imam Gregorios Karat (GP) for R2 & 3)

O.A No.180/407/2021

James Joseph,
I.P.S Retired Supdt. of Police, Alappuzha
Aged 61 years, S/o Joseph,
Residing at Kaithaparambil House,
Flat No. 903, Florance Heights,
Ansals City, Puthiyakavu,
Tripunithura, Cochin - 682305

- Applicant

(By Advocate: Mr.K.R.Radhakrishnan Nair)

Versus

1. State of Kerala,
Represented by the Chief Secretary,
Government Secretariat,
Thiruvananthapuram – 695001.
2. Union of India
Represented by the Secretary,
Ministry of Home Affairs,
New Delhi-110001

3. The Accountant General (A&E)
 Office of the Accountant General Kerala (A&E)
 Thiruvananthapuram- 695001 - Respondents

(By Advocate: Mr.Anil Prasad, ACGSC for R2 & Mr.Imam Gregorios Karat, G.P for R1 & 3.)

O.A No.180/406/2021

P. Sunil Babu,
 I.P.S. Retired, Superintendent of Police,
 CB Control Unit III, Kozhikode,
 Aged 62 years, S/o. V.K. Nanu,
 Residing at 'Sarang', (Sumasadhan),
 P.O. Azhiyur, Kozhikode – 673 309. - Applicant

(By Advocate: Mr.K.R. Radhakrishnan Nair)

Versus

1. State of Keralal,
 Represented by the Chief Secretary,
 Government Secretariat,
 Thiruvananthapuram – 695 001.
2. Union of India,
 Represented by its Secretary,
 Ministry of Home Affairs,
 New Delhi – 110 001.
3. The Accountant General (A&E),
 Office of the Accountant General Kerala (A&E),
 Thiruvananthapuram -695001. - Respondents

(By Advocate: Mr.Anil Prasad, ACGSC for R2, Mr.Imam Grigorios Karat, G.P for R 1 & 3)

O.A No.180/425/2021

I.R.Sukesan, Aged 61, S/o P. Raghavan ,
 Superintendent of Police, (Retired),
 State Special Branch, Thiruvananthapuram Range,
 Residing at Surendra Vilasam,
 Kulathur.P.O., Thiruvananthapuram - Applicant

(By Advocate: Mr.P.V.Mohanan & Mr.P.N.Biju)

Versus

1. Union of India represented by the Secretary,
Ministry of Home Affairs, North Block, New Delhi-110001
2. The State of Kerala
Represented by its Chief Secretary,
Government of Kerala, Thiruvananthapuram- 695001
3. The Accountant General (A&E)
Office of the Accountant General,
State of Kerala, Thiruvananthapuram- 695001 - Respondents

(By Advocate: Mr.N.Anilkumar,SCGSC for R1 & Mr.Imam Gregorios Karat (GP) for R2 & 3.)

These O.As having been heard on 8th September, 2021 through video conferencing, this Tribunal delivered the following order on 17.09.2021:

O R D E R

P.Madhavan, Judicial Member

Since the subject matter of these cases are similar in nature, all the cases are disposed of by way of a common order.

2. The short question involved in these cases is whether the applicant is entitled to get the period regularized during which he was kept out of service from the date of his retirement from State Police Service to the date of joining of the IPS promotion post, as duty, for all purposes including that for pay and allowances, pension and all retiral benefits etc.

3. **O.A No.180/405/2021:** This Original Application has been filed by the applicant seeking the following reliefs:

“(a) To declare that the applicant is entitled to get the period regularized during which he was kept out of service from the date of his retirement from State Police Service on 31.12.2017 to the date of joining of the IPS promotion post on 30.08.2018, as duty for all purposes including that for pay and allowances, pension and all retiral benefits etc.

(b) To issue appropriate orders directing the respondents to extent the benefit of Annexures A1 and A2 to the applicant also in respect of the period he was kept out of service from the date of retirement to the date of joining in the IPS.

(c) To issue appropriate order of direction, directing the respondents to sanction and disburse pay and allowances and all other benefits to the applicant for the above period forthwith;

(d) To issue such other reliefs as this Hon'ble Tribunal deems fit to grant in the facts and circumstances of the case, in the interest of justice and equity."

The applicant in this case had retired from State Police Service as Superintendent of Police (Non-IPS) on 31.12.2017. Later, he was conferred with IPS and assumed charge in the IPS cadre as Superintendent of Police on 31.8.2018. According to the applicant, he is entitled to get the period regularised i.e, from the date of retirement till assuming charge as Superintendent of Police in the IPS cadre. According to the applicant, judicial pronouncement of this Tribunal and Hon'ble High Court of Kerala supports his case and he is entitled to get the period regularised and he is also entitled to get notional fixation of pay from the date of vacancy till the date of appointment to the cadre of IPS. Accordingly, the applicant prays for regularising the period from 31.12.2017 to 30.08.2018 as duty for all purposes for calculating his pay and allowances, pension and retirement benefits.

4. **O.A 180/407/2021:** In this case, the reliefs prayed for by the applicant are as follows:

"(a) To declare that the applicant is entitled to get the period regularized during which he was kept out of service from the date of his retirement from State Police Service on 31.05.2016 to the date of joining of the IPS promotion post on 30.08.2018, as duty for all purposes including that for pay and allowances, pension and all retiral benefits etc.

(b) To issue appropriate Orders directing the respondents to extent the benefit of Annexures A-1 and A-2 to the applicant also in respect of the period he was kept out of service from the date of retirement to the date of joining in the IPS.

(c) To issue appropriate Order of Direction, directing the respondents to sanction and disburse pay and allowances and all other benefits to the applicant for the above period forthwith;

(d) To issue such other reliefs as this Hon'ble Tribunal deems fit to grant in the facts and circumstance of the case, in the interest of justice and equity."

The applicant retired from the post of Superintendent of Police (Non-IPS) on 31.5.2016. He is entitled to get promotion to the cadre of IPS from the year 2015 onwards. According to him, the respondents are duty bound to convene and conduct Selection Committee Meetings for the year 2015-2016 immediately thereafter. There had occurred undue delay on the part of the State Government and in the meanwhile, the applicant retired from service on 31.5.2016. If the selection Committee had met in time, the select list would have been approved and the applicant would have been appointed to the IPS cadre much before the actual date of joining. The applicant was unlawfully kept out of service from 1.6.2016 to 30.8.2018. Even though the applicant had given representations, the State Government was not ready to regularise the period and to give notional fixation of his pay. Hence, he prays for notional fixation of pay from 1.6.2016 to 30.8.2018 when he joined the IPS cadre.

5. **O.A No.180/406/21:** In this Original Application, the applicant has prayed for the following reliefs:

"(a) To declare that the applicant is entitled to get the period regularised during which he was kept out of service from the date of his retirement from State Police Service on 31.05.2015 to the date of joining of the IPS promotion post on 19.02.2018, as duty for all purposes including that for pay and allowances, pension and all retiral benefits etc.

(b) To issue appropriate Orders directing the respondents to extent the benefit to Annexures A-5 and A-6 to the applicant also in respect of the period he was kept out of service from the date of retirement to the date of joining in the IPS.

(c) To issue appropriate Order of Direction, directing the respondents to sanction and disburse pay and allowances and all other benefits to the applicant for the above period forthwith;

And

(d) To issue such other reliefs as this Hon'ble Tribunal deems fit to grant in the facts and circumstances of the case, in the interest of justice and equity."

The applicant was working as Superintendent of Police (Non IPS) in the State Police Service and had retired on 31.5.2015. Thereafter, he was appointed to the IPS cadre as Superintendent of Police on 19.2.2018. The applicant is entitled to get the period, which he was kept out of service from the date of retirement from State Service up to the date of joining IPS cadre, regularised and to get the fixation of pay and allowances notionally and pensionary benefits in accordance with the same. The respondents are denying the same to the applicant. Earlier, the State Government has granted such benefits to other persons and non grant of the same to the applicant is discriminatory. Hence, he prays for regularizing the period between 1.6.2015 to 19.2.2018 as duty period for all purposes including for pay and allowances, pension etc.

6. **O.A No.180/425/2021:** This Original Application has been filed by the applicant seeking the following reliefs:

"(i) To direct the respondents to regularize the period of the service of the applicant from 01.06.2017 (the date of superannuation from State Police Service) to 30.08.2018 (the date of assumption of charge in Indian Police Service cadre) as on duty for all purposes and to fix the pay and allowance and increments notionally in the Senior Scale/Junior Administrative Grade in Indian Police Service cadre for all purposes including arrears of pay and disburse the same.

(ii) To direct the second respondent to consider Annexure A7 representations in the light of Annexure A3, A4, A5 and Annexure A6 respectively and fix the pay of the applicant notionally by regularizing the period from 01.06.2017 to 30.08.2018 and pay arrears of pay during the periods from 01.06.2017 to 30.08.2018 treating him on duty.

(iii) Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice."

The applicant in this case was working as Superintendent of Police (Non-cadre)

and he retired from service on 31.5.2017 on attaining the age of 56 years. There has occurred a lot of delay due to non-convening of Selection Committee Meeting. The applicant was selected by the UPSC for the year 2016 and he was appointed to the IPS cadre and assumed charge on 31.8.2018. He has retired on 31.5.2021 from the IPS cadre. The applicant seeks to regularise the period between 1.6.2017 to 30.8.2018 when he was kept out of service due to the fault of the government in delaying the selection. Hence, the applicant has prayed for regularisation of the period from 1.6.2017 to 30.8.2018 and to release the benefits to him.

7. **O.A No.180/427/2021:** This is an Original Application seeking the following reliefs:

“(i) To direct the respondents to regularize the period of the service of the applicant from 01.06.2017 (the date of superannuation from State Police Service) to 30.08.2018 (the date of assumption of charge in Indian Police Service cadre) as on duty for all purposes and to fix the pay and allowance and increments notionally in the Senior Scale/Junior Administrative Grade in Indian Police Service cadre for all purposes including arrears of pay and disburse the same.

ii) To direct the second respondent to consider Annexure A7 representation in the light of Annexure A2, A3, A4, A5 and Annexure A6 respectively and fix the pay of the applicant by regularizing the periods from 01.06.2017 to 30.08.2018 and pay the arrears of pay during the periods from 01.06.2017 to 30.08.2018 treating him on duty.

iii) Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice.”

The applicant's case is that he retired from the post of Superintendent of Police (Non-cadre) on 31.5.2017 on attaining the age of 56 years. The applicant is eligible for considering in promotion quota to IPS for the years 2014, 2015 and 2016. The Selection Committee for the year 2016 was held in the year 2018 and the applicant got selected and he joined the service of IPS on 31.8.2018. He retired from IPS on attaining the age of 60 years. Hence, the applicant prays for regularisation of the period from 1.6.2017 to 30.8.2018 as on duty for the purpose of salary and pensionary benefits.

8. The respondents entered appearance. The counsel for the contesting respondents, the State Government, appeared and filed a detailed statement stating that there is no inordinate delay in conducting the Selection Committee Meeting in these cases. According to him, the preparation of proposal for convening the Selection Committee Meeting for promotion of State Police Service Officers to IPS is a long process that includes verification of various records such as ACR of the officer in the zone of consideration, disciplinary status/penalties imposed upon the officers during the last ten years, issuance of integrity certificate in respect of each officer etc. All these details have to be verified and cross checked for avoiding discrepancies in the proposal. These are to be sent to UPSC. Counsel for the State Government submits that, in these circumstances, there is no intentional or willful delay in convening the Selection Committee Meetings for the promotion of applicants in these Original Applications. Hence, there is no merit in the contention of the applicants in these cases.

9. The Counsels appearing for the applicants had invited our attention to the earlier decisions of this Tribunal which covers the point. The Hon'ble High Court in W.P(C) No.9639/2010 dated 18.3.2014 held (relying on the decisions of the Hon'ble Supreme Court in **UPSC and Anr. v. A.K.Salim and others** reported in 2008 11 SCC 495) that the petitioners are entitled to get regularisation of the intervening period by notional fixation and granting all pensionary benefits etc. The above judgment of the Hon'ble High Court has become final and the applicants herein are also similarly placed persons and there has taken place delay in convening Selection Committee Meetings and it is because of that there had taken place undue delay in posting the applicants in the IPS cadre. The applicants in these cases who belong to State Service are liable to be retired when they attained the age of 56 years. On the contrary, for the central civil service persons, the age of superannuation is 60 years. The applicants had obtained orders from the Tribunal stating that retirement of the applicants from the State Service will not preclude them from applying for the post of IPS by promotion.

10. In view of the decision of the Hon'ble High Court mentioned above, the State Government is liable to grant regularisation of the periods mentioned above by the applicants i.e, from the date of retirement from State service till the date of joining of duty in the IPS cadre. The state government is directed to grant regularisation and fix the pay notionally and grant all benefits including pensionary benefits, within a period of three months from the date of receipt of a copy of this order.

11. These Original Applications are allowed as above. No costs.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

List of Annexures

O.A No.180/00405/2021

Annexure A1 - True copy of the judgment dated 30/5/2011 in O.A No.788/2010 of this Hon'ble Tribunal

Annexure A2 - True copy of the judgment dated 18.3.2014 in OP(CAT) No.1251/2012 of Hon'ble High Court of Kerala.

O.A No.180/427/2021

Annexure A1 - True copy of the notification No. 1-14011/15/2017-IPS.I (II) dated 30.08.2018.

Annexure A2- True copy of the notification No 16011 22006 IPS II dated nil May 2006.

Annexure A3- True copy of the judgment in W.P.C. No. 9639/2010 dated 18.03.2014.

Annexure A4- True copy of the Go (Rt) No. 2165/2015/GAD dated 25.03.2015.

Annexure A5- True copy of the Go (Rt) No. 5853/2015/GAD dated 31.07.2015.

Annexure A6- True copy of order in Civil Appeal No. 3648/08 dated 3.01.2011.

Annexure A7- True copy of the representation dated 29.03.2021.

O.A No.180/407/2021

Annexure A1 - True copy of the Judgment dated 30/5/2011 in O.A. No. 788/2010 of this Hon'ble Tribunal.

Annexure A2- True copy of the Judgment dated 18.3.2014 in OP(CAT) No. 1251/2012 of Hon'ble High Court of Kerala.

O.A No.180/406/2021

Annexure A1 - True copy of the Notification dated 18.02.2015 of the 2nd respondent.

Annexure A2- True copy of G.O. (Rt.) No. 1535/2018/GAD dated 13.03.2018.

Annexure A3- True copy of the representation dated 06.03.2019 sent by the applicant to the 1st respondent.

Annexure A4- True copy of the representation dated 08.04.2019 sent by the applicant to the 1st respondent.

Annexure A5- True copy of the judgment dated 30.05.2011 in O.A. No. 788/2010 of this Hon'ble Tribunal.

Annexure A6- True copy of the Judgment dated 18.03.2014 in OP(CAT) No. 1251/2012 of Hon'ble High Court of Kerala.

O.A No.180/425/2021

Annexure A1- True copy of the order in O.A No. 189/2017 dated 10.03.2017.

Annexure A2- True copy of the notification No 1-14011/15/2017-IPS.I (II) dated 30.08.2018.

Annexure A3- True copy of the judgment in W.P.C No 9639/2010 dated 18.3.2014.

Annexure A4- True copy of the Go (Rt) No 2165/2015/GAD dated 25.3.2015.

Annexure A5- True copy of the Go (Rt) No 5853/2015/GAD dated 31.7.2015

Annexure A6- True copy of the order in Civil Appeal No 3648/2008 dated 03.1.2011.

Annexure A7- True copy of the representation dated 26.3.2021.

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