

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00824/2018

Friday, this the 8th day of October, 2021

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member

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

1. P.S. Gopi, I.P.S., Commandant KAP III,
Palghat, residing at Valiyaparambil House,
Valiyaparambu, PO Kottur, Trichur-680 013.
2. P. Asok Kumar, IPS, Superintendent of Police,
(Trivandrum Rural), residing at Sindoor, Near St.
Thomas Residential School, Mukkolakal PO,
Thiruvananthapuram – 695 014. **Applicants**

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

V e r s u s

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 Advocates : Mr. N. Anilkumar, SCGSC (R2) &
Mr. Imam Gregorious Karat, GP (R1 & 3)]**

This application having been heard on 05.10.2021 through video conferencing, the Tribunal on 08.10.2021 delivered the following:

O R D E R

Hon'ble Mr. P. Madhavan, Judicial Member –

This OA is filed seeking the following reliefs:

“(a) To declare that the applicants are entitled to get the period during which they were kept out of service from the date of their retirement from

State Police Service on 1.3.2015 to the date of joining of the IPS promotion post on 14.10.2015 of the 1st applicant and from 1.6.2015 to 13.10.2015 in the case of 2nd applicant, 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 extend the benefit of Annexure A-10 and A-11 to the applicants also in respect of the period they were kept out of service from the date of retirement to the date of joining in the IPS.

© To issue appropriate order or direction, directing the respondents to sanction and disburse pay and allowances and all other benefits to the applicants 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."

2. The case of the applicants in short is as follows:

The applicants while working as Superintendent of Police (Non-IPS) in the State cadre retired from service on 28.2.2015 and 31.5.2015 respectively. They were entitled to get promoted to the IPS cadre but it was delayed considerably due to inaction of respondents. However, they joined the IPS cadre only w.e.f. 14.10.2015 and 13.10.2015 respectively. According to them they are entitled to get their service between 1.3.2015 and 1.6.2015 respectively till the date of their joining in the IPS cadre to be regularized and are also entitled to get the pay and other benefits consequent to the same.

3. The respondents State Government filed a detailed affidavit stating that the applicants had not worked during the above period and therefore, they are not entitled to get any pay during the above period between 1.3.2015 to 13.10.2015 (for the 1st applicant) and 1.6.2015 to 12.10.2015 (for the 2nd applicant). They admitted that the applicants were appointed to the IPS

cadre as claimed by them and according to them they are not entitled to get the benefits as claimed but they had conceded that they are entitled to get regularization of the period for which they were kept out of service.

4. Respondent No. 3 Union of India had also filed a statement opposing the contentions raised by the applicants.

5. When the matter came up for consideration, learned counsel for the applicants had produced a decision of the Hon'ble High Court of Kerala in WP© No. 24497 of 2009 – *State of Kerala v. M.V. Somasundaram & Ors.*, wherein the Hon'ble High Court has granted notional fixation of pay and retirement benefits for the period in between the date of retirement and date of re-joining in IPS cadre. They had also produced a copy of the OA No. 180/1055/ 2014 and OA No. 180/276/2015 in support of their case. We have gone through the decision of the Hon'ble High Court of Kerala in *Somasundaram's* case (supra) wherein the Hon'ble High Court has granted notional fixation from the date of retirement till the date of joining the IPS cadre.

6. On going through the above judgments, we find that the applicants are entitled to be considered for notional fixation of their pay and regularization of their service for the period from 1.3.2015 to 13.10.2015 (for the 1st applicant) and 1.6.2015 to 12.10.2015 (for the 2nd applicant). The decision of the Hon'ble High Court of Kerala in *Somasundaram's* case (supra) squarely covers the above proposition put forward by the counsel for the applicants. So we find that the applicants are also entitled to get the benefit of regularization of the above period and to have notional fixation of pay and

pensionary benefits arising out of the same. We order accordingly. The respondents are directed to comply with the above order within a period of three months from the date of receipt of a copy of this order.

7. The Original Application is disposed of as above. No order as to costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/00824/2018

APPLICANTS' ANNEXURES

- Annexure A1** – True copy of the order dated 11.3.2015 in OA No. 1055/2014 of this Hon'ble Tribunal.
- Annexure A2** – True copy of the order dated 6.5.2015 in MA No. 389/2015 in OA No. 276/2015 of this Hon'ble Tribunal.
- Annexure A3** – True copy of the order dated 27.5.2015 in OA No. 276/2015 of this Hon'ble Tribunal.
- Annexure A4** – True copy of the notification dated 5.10.2015 of the 2nd respondent.
- Annexure A5** – True copy of the order GO (MS) 7545/2015 dated 12.10.2015 of the 1st respondent.
- Annexure A6** – True copy of the order dated 18.3.2016 of the 2nd respondent.
- Annexure A7** – True copy of the representation dated 30.10.2015 of the 1st to the State Police Chief.
- Annexure A8** – True copy of the order NO. 696/Spl/C3/15/GAD dated 29.3.2016 of the 1st respondent.
- Annexure A9** – True copy of the order NO. GE01/C/IPS/1125 dated 3.8.2018 of the 3rd respondent.
- Annexure A10** – True copy of the judgment dated 30.5.2011 in OA No. 788/2010 of this Hon'ble Tribunal.
- Annexure A11** – True copy of the judgment dated 18.3.2014 in OP (CAT) No. 1251/2012 of Hon'ble High Court of Kerala.

RESPONDENTS' ANNEXURES

Nil

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