

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00219/2021

Wednesday, this the 20th day of October, 2021

CORAM:

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

Thampi S. Durgadutt, IPS, aged 60,
 S/o. T.V. Sankaran Nair,
 Superintendent of Police/Assistant Director (Retired),
 Kerala Police Academy, Trissur,
 Residing at Chiramattel House, Church Nagar,
 TC-22/1483, Nanthiar House, House NO. 48C,
 Swathi Nagar Lane-2, Pippinmoodu, Peroorkkada PO,
 Thiruvananthapuram.

..... **Applicant**

(By Advocate : Mr. P.V. Mohanan)

V e r s u s

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

**[By Advocates : Mr. V.A. Shaji, ACGSC (R1) &
 Mr. Imam Gregorius Karat, GP (R2 & 3)]**

This application having been heard on 12.10.2021 through video conferencing, the Tribunal on 20.10.2021 delivered the following:

O R D E R

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

This OA is filed seeking the following reliefs:

“(i) To direct the respondents to regularize the period of service of the applicant from 28.2.2017 (the date of superannuation from State Police

Service) to 30.09.2020 (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 A3, A4, A5 and Annexure A6 respectively and fix the pay and disburse the arrears of pay during the periods from 28.2.2017 to 30.9.2020 treating him as if he is in service and disburse the same.

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

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

The applicant while working as Superintendent of Police (Non-IPS) in the State cadre retired from service on 28.2.2017. He was entitled to get promoted to the IPS cadre but it was delayed considerably due to the inaction of the respondents. However, he joined the IPS cadre only w.e.f. 30.09.2020. According to him he is entitled to get his service between 28.2.2017 till the date of his joining in the IPS cadre to be regularized and is also entitled to get the pay and other benefits consequent to the same.

3. The counsel for the respondents State Government filed a preliminary objection/statement indicating that the applicant had not worked during the above period and therefore, he is not entitled to get any pay during the above period between 28.2.2017 (the date of superannuation from State Police Service) to 30.09.2020 (the date of assumption of charge in the IPS cadre). He admitted that the applicant was appointed to the IPS cadre as claimed by him and according to him the applicant is not entitled to get the benefits as claimed and submitted that there is no such stipulation in the All India Service Rules providing for regularization of such intervening periods and

the rules also do not contemplate allowing the same. If the same is permitted it will open the way for several such requests being made for regularization which will result in huge financial loss to the State exchequer and resulting in grant of undue benefits even for the periods where the individual had not worked.

4. Respondent No. 1 Union of India had not filed any statement and is not a contesting party.

5. When the matter came up for consideration, learned counsel for the applicant produced a decision of the Hon'ble High Court of Kerala in WP(C) No. 9639 of 2010 – *State of Kerala v. K.V. Ravikumar & Ors.* (Annexure A4), 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 the IPS cadre. Applicant had also produced a copy of the decision in OA No. 180/405/2021 and connected matters in support of his case.

6. On going through the above judgments, we find that the applicant is entitled to be considered for notional fixation of his pay and regularization of his service for the period from 28.2.2017 (the date of superannuation from State Police Service) to 30.09.2020 (the date of assumption of charge in the IPS cadre). **The decision of the Hon'ble High Court of Kerala in *K.V. Ravikumar's* case (supra) squarely covers the above proposition put forward by the counsel for the applicant. So we find that the applicant is 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. 180/00219/2021**APPLICANT'S ANNEXURES**

Annexure A1 – True copy of the order in OA No. 974/2016 dated 23.11.2016.

Annexure A2 – True copy of the notification No. 1-14011/18/2020-IPS.I(II) dated 30.9.2020.

Annexure A3 – True copy of the notification No. 1601122006 IPS II dated nil May 2006.

Annexure A4 – True copy of the judgment in WPC No. 9639/2010 dated 18.3.2014.

Annexure A5 – True copy of the Go(Rt) No. 2165/2015/GAD dated 25.3.2015.

Annexure A6 – True copy of the Go(Rt) No. 5853/2015/GAD dated 31.7.2015.

Annexure A7 – True copy of the representation dated 25.1.2021.

Annexure A8 – True copy of the letter No. A1-2157/2021/KEPA dated 3.2.2021.

Annexure A9 – True copy of the order in OA No. 405/2021 dated 17.9.2021.

RESPONDENTS' ANNEXURES

Nil

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