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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO. 959 OF 2005

Cuttack, this the ~~30~~ day of October 2007

Sukanta Chandra Das

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? *yes*
- 2) Whether it be circulated to the Principal Bench of the Central Administrative Tribunal or not? *yes*


(N.D.RAGHAVAN)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO. 959 OF 2005

Cuttack, this the 30th day of October 2007

CORAM:

HON'BLE SHRI N.D.RAGHAVAN, VICE-CHAIRMAN

.....

Sukanta Chandra Das, aged about 38 years, son of Sri Khirod Chandra Das, resident of At-Kushpur, P.O.-Odasingh, Via-Rameswar, Dist.Cuttack, Orissa, at present working as Enforcement Officer/Assistant Accounts Officer, in the office of Regional Provident Fund Commissioner, Sub Regional Office, Employees Provident Fund Organization, Panposh Road, Rourkela, Dist. Sundargarh 769004

..... Applicant

Advocates for applicant - M/s K.C.Kanungo,
Mrs.S.Adhikary,R.Mohanty &
Miss.C.Padhi.

Vrs.

1. Union of India, represented through the Secretary to Government of India, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi 1.
2. Director, Advertising & Visual Publicity, Ministry of Information and Broadcasting, B-Block, K.G.Marg, New Delhi 110 001.
3. Central Board of Trustees, represented through Central Provident Fund Commissioner, Employees Provident Fund Organization, Bavisyanidhi Bhawan, 14, Bhikaji Cama Place, New Delhi 66.
4. Regional Provident Fund Commissioner, Employees Provident Fund Organization, Bhavisya Nidhi Bhawan, Janpath, Unit IX, Bhubaneswar 22.

..... Respondents

Advocate for Respondents 1 & 2 - Mr.S.B.Jena, ASC
Advocate for Respondents 3 & 4 - Mr.S.S.Mohanty

ORDER

SHRI N.D.RAGHAVAN, VICE-CHAIRMAN

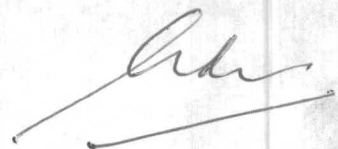
This O.A. was listed for hearing on 5.2.2007, 6.3.2007, 14.3.2007, 7.5.2007 and 2.7.2007 and was adjourned from date to date on the request of the learned counsel for either side. On 2.7.2007 the O.A. was adjourned to 27.7.2007.



2. On 27.7.2007 the learned counsels M/s K.C.Kanungo, Mrs.S.Adhikary, R.Mohanty and Miss.C.Padhi for the applicant, the learned Additional Standing Counsel Mr.S.B.Jena for Respondent Nos. 1 and 2, and the learned counsel Mr.S.S.Mohanty for Respondent Nos. 3 and 4 remained absent due to advocates' strike on Court work before this Bench purportedly on the basis of the CAT Bar Association resolutions passed without ^{- any basis, lady.} substance or value but violating principles of natural justice too. In this connection, I would like to refer to the decision in the case of **Ramon Services Private Limited Vrs. Subash Kapoor and Others**, reported in JT 2000 (Suppl. 2) Supreme Court 546, holding as follows:

“When the advocate who was engaged by a party was on strike, there is no obligation on the part of the court either to wait or to adjourn the case on that account. It is not agreeable that the courts had earlier sympathized with the Bar and agreed to adjourn cases during the strikes or boycotts. If any court had adjourned cases during such periods, it was not due to any sympathy for the strikes or boycotts, but due to helplessness in certain cases to do otherwise without the aid of a Counsel.”
(Judgment Paras-5 & 14)

“In future, the advocate would also be answerable for the consequence suffered by the party if the non-appearance was solely on the ground of a strike call. It is unjust and inequitable to cause the party alone to suffer for the self imposed dereliction of his advocate. The litigant who suffers entirely on account of his advocate's non-appearance in court, has also the remedy to sue the advocate for damages but that remedy would remain unaffected by the course adopted in this case. Even so, in situations like this, when the court mulcts the party with costs for the failure of his advocate to appear, the same court has power to permit the party to realize the costs from the advocate concerned. However, such direction can be passed only after affording an opportunity to the advocate. If he has any justifiable cause, the court can certainly absolve him from such a liability. But the advocate cannot get absolved merely on the ground that he did not attend the court as he or his association was on a strike. If any



Advocate claims that his right to strike must be without any loss to him but the loss must only be for his innocent client, such a claim is repugnant to any principle of fair play and canons of ethics. So, when he opts to strike work or boycott the court, he must as well be prepared to bear at least the pecuniary loss suffered by the litigant client who entrusted his brief to that advocate with all confidence that his cause would be safe in the hands of that advocate."

(Para-15)

"In all cases where court is satisfied that the ex parte order (passed due to the absence of the advocate pursuant to any strike call) could be set aside on terms, the court can as well permit the party to realize the costs from the advocate concerned without driving such party to initiate another legal action against the advocate."

(Para-16)

"Strikes by the professionals including the advocates cannot be equated with strikes undertaken by the industrial workers in accordance with the statutory provisions. The services rendered by the advocates to their clients are regulated by a contract between the two, besides statutory limitations, restrictions, and guidelines incorporated in the Advocates Act, the Rules made thereunder and Rules of procedure adopted by the Supreme Court and the High Courts. Abstaining from the courts by the advocates, by and large, does not only affect the persons belonging to the legal profession but also hampers the process of justice sometimes urgently needed by the consumers of justice, the litigants. Legal profession is essentially a service oriented profession. The relationship between the lawyer and his client is one of trust and confidence."

(Para-22)

"No advocate could take it for granted that he will appear in the Court according to his whim or convenience. It would be against professional ethics for a lawyer to abstain from the Court when the cause of his client is called for hearing or further proceedings. In the light of the consistent views of the judiciary regarding the strike by the advocates, no leniency can be shown to the defaulting party and if the circumstances warrant to put such party back in the position as it existed before the strike. In that event, the adversary is entitled to be paid exemplary costs. The litigant suffering costs has a right to be compensated by his defaulting Counsel for the costs paid. In appropriate cases, the Court itself could pass effective orders, for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal



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profession. The defaulting Courts may also be contributory to the contempt of this Court.”

(Paras-24, 27 & 28)

Keeping in view the aforesaid case law laid down by the Hon'ble Supreme Court, condemning severely such strike as contempt of Court particularly Hon'ble Supreme Court itself and leaving the Ld.Counsels including those representing Government at the peril of facing the consequences thereof and in view of the provisions contained in Section 22(2) of the Administrative Tribunals Act, 1985 that Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of the documents and written representations and after hearing such oral arguments, as may be advanced and in accordance with Rule 15 of the CAT (Procedure) Rules, 1987, the available record on hand has been perused for adjudicating the issue as below.

3. Before going to state the facts of the case, it is necessary to point out here that the applicant had initially filed the Original Application in December 2005 with the prayer for a direction to Respondent Nos. 1 and 2 to settle the pro rata pension, leave encashment and refund of CGEGIS contribution, and by order dated 26.12.2005 the Bench directed issuance of notice to the Respondents. Accordingly, the Registry issued the notices to the Respondents.

3.1 Before the counter to the O.A. was filed by the Respondents, the applicant filed MA No. 479 of 2006 in August 2006 for amendment of the Original Application as on the basis of the letter dated 23.5.2006 (Annexure A/13) issued by Respondent No.4, Respondent No.2 issued orders dated 26.7.2006 (Annexures A/14 and A/15) regarding payment of service gratuity and retirement gratuity in



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favour of Respondent No.4 for the purpose of counting his past service in the Central Government.

3.2 By order dated 17.8.2006 passed by the Tribunal on MA No. 479 of 2006, the applicant's prayer for amendment of the O.A. was allowed. The applicant accordingly filed the consolidated O.A. incorporating Annexures A/13, A/14 and A/15 and inserting additional prayers.

4. In the amended O.A. the applicant has prayed for the following relief(s):

“8. RELIEF SOUGHT

In view of the facts stated above the Applicant prays for the following relief(s): Your Lordships may be graciously pleased to direct the Respondent No.1 and 2 to settle the pro rata pension, leave encashment and refund of CGEGIS contribution.

AND

Be further pleased to direct the Respondent No.2 to pay the Applicant penal interest @ 18% for 6 years on his entitled dues.

AND

Be further pleased to quash Annexure A/13 to the extent the Respondent No.3 asked Respondent No.2 to remit the service and retirement gratuity.

AND

Be further pleased to quash Annexure A/14 and Annexure A/15 for the ends of justice.

AND

Be further pleased to pass any other/further order(s) or direction(s) as deemed fit and proper in the circumstances of the case.

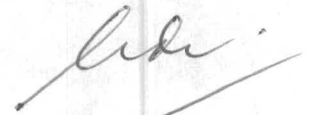
AND

The cost of the Application may kindly be allowed.

AND

For such kind act the Applicant shall as in duty bound ever pray.”

5. Brief facts of the applicant's case are as follows: The applicant, after qualifying the competitive examination conducted by the Staff Selection Commission (SSC), had initially joined Central Government service as Lower



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Division Clerk (LDC) on 4.6.1990 in the office of the Joint Secretary & CAO of Ministry of Defence (MoD), New Delhi. Upon his selection in the examination conducted by SSC and appointment as Accounts Clerk/Junior Account, he tendered his technical resignation which was accepted by the Ministry of Defence and joined as Accounts Clerk/Junior Account on 26.7.1993 in the office of Director, Advertising & Visual Publicity (DAVP), Ministry of Information & Broadcasting, New Delhi. While continuing as such, he completed the period of probation of 2 years and was promoted to the next higher post of Accountant with effect from 19.11.1998. He then made an application through proper channel for selection to the post of Enforcement Officer/Assistant Accounts Officer (EO/AAO) in the Employees Provident Fund Organization (EPFO), appeared at the written test and interview conducted by the Union Public Service Commission (UPSC). Upon his selection and appointment as EO/AAO in EPFO, the applicant tendered his 'technical resignation', which was accepted by Respondent No.2 on 24.12.1999, and joined as EO/AAO on 27.12.1999 in the office of Respondent No.4, the Regional Commissioner, EPFO, Bhubaneswar.

5.1 The applicant made representations (Annexures A/5, A/6, A/7), through Respondent No.4 under which he was working, to Respondent No.2-DAVP and prayed for payment of pro rata pension, encashment of E.L., gratuity, CGEIS, etc., for the service rendered by him in the Central Government. All his aforesaid representations were duly forwarded to Respondent No.2-DAVP.

5.2 Respondent No.2-DAVP, by letter dated 25.8.2004 (Annexure A/8) requested Respondent No.4-EPFO to send back the Service Book of the applicant



to consider his claim. The Service Book of the applicant was accordingly forwarded to Respondent No.2-DAVP. Respondent No.2-DAVP, upon receipt of the Service Book, by letter dated 22.12.2004, sought for clarification from Respondent No.4-EPFO as to whether or not the service of the applicant has been counted for pensionary purposes in the EPFO. Respondent No.4-EPFO, by letter dated 28.3.2005 (Annexure A/12), intimated Respondent No.2-DAVP that the EPFO had not given the Service Gratuity, Leave Encashment and CGEGIS benefits to the applicant for the service rendered in DAVP and that the applicant's service rendered in DAVP had not been counted for pensionary benefits under the EPFO.

5.3 The repeated representations of the applicant and the clarification given by the EPFO, as stated above, having yielded no fruitful results, the applicant had initially filed the O.A. in December 2005 for appropriate direction to Respondent No.2.

5.4 After the notices were issued by the Tribunal, it appears, Respondent No.4, by letter dated 23.5.2006, (Annexure A/13), while further intimating Respondent No.2-DAVP that the benefit of past service rendered in DAVP by the applicant had not been counted for pensionary purposes, mentioned that on receipt of the Retirement Gratuity, Service Gratuity from DAVP the applicant's past service would be counted for the purpose of pensionary benefits in the EPFO, besides requiring the DAVP to remit the benefits of encashment of EL & CGEGIS contribution in favour of the applicant.

5.5 Respondent No.2-DAVP, apparently acting on the said letter dated 23.5.2006 (Annexure A/13) of Respondent No.4-EPFO, issued orders dated



26.7.2006 (Annexures A/14 and A/15) remitting Rs.53,856/- towards Service Gratuity and Rs.26,928/- towards Retirement Gratuity to Respondent No.4-EPFO in favour of the applicant for his past service in the DAVP/Central Government.

5.6 In the context of the above, the applicant has filed the present O.A. seeking the reliefs, as quoted earlier.

6. Respondent Nos. 1 and 2-DAVP have filed a counter wherein they have not disputed the factual aspects of the applicant's case, except pointing out certain discrepancies in the representations submitted to them by the applicant and the correspondences that ensued between DAVP and EPFO. They have, however, stated that as per Government of India's order No.(2) under FR 13, in the case of a permanent Government servant working in a particular Department/Office, who applies in response to advertisements or circulars inviting applications for posts in other Central Government offices getting employed in other Departments and gets selected, there his lien may be retained in the parent Department/Office for a period of two years. In view of this Government of India's order, they have submitted that in no circumstances, lien can be kept for five years, as claimed by the applicant. They have also submitted that the applicant is eligible to claim pro rata retirement benefits or counting the period from 4.6.1990 to 26.12.1990 as qualifying service for pensionary benefits under the EPFO and not for pro rata pension from DAVP. Respondent Nos.1 & 2-DAVP have admitted the receipt of option under Rule 27 of Central Civil Services (Pension) Rules and after processing the matter and on the basis of letter dated 23.5.2006 (Annexure A/13), have issued orders under Annexures A/14 and A/15 remitting the payment of Service Gratuity and



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Retirement Gratuity to the EPFO and separately making the payment of CGEGIS and Leave Encashment to the applicant. With these averments, the Respondent Nos.1 & 2-DAVP contested the claim of the applicant and prayed for dismissal of the O.A. with costs.

7. Respondent Nos. 3 and 4-EPFO have filed a counter wherein they have not disputed the statements made by the applicant as well as by the Respondent Nos. 1 and 2-DAVP, but have pleaded that it was the responsibility of the applicant as well as the Respondent Nos.1 & 2-DAVP to act in accordance with Rule 37(3) of the CCS (Pension) Rules, 1972.

8. The applicant has filed a rejoinder to the counter of Respondent Nos. 1 & 2-DAVP. Along with the said rejoinder, the applicant has filed the offer of appointment dated 7.12.1999 (Annexure A/16) issued by the EPFO, the office order dated 3.1.2002 (Annexure A/17) issued by the EPFO confirming the services of the applicant, along with others, in the cadre of EO/AAO with effect from 27.12.2001, and the excerpt from the Government of India, Department of Pension & P.W.' O.M. dated 31.3.1987 (Annexure A/18). He has submitted that the Respondent Nos. 1 and 2-DAVP, instead of considering his lawful claim for granting pro rata pensionary benefits, including Leave Encashment and CGEGIS benefits, in accordance with the rules and Government of India decisions, referred to above, have remitted the Service Gratuity and Retirement Gratuity to the EPFO, which was never opted by him in his representations and have thereby acted in a most prejudicial manner adversely affecting his interests.



9. The applicant has also filed a rejoinder to the counter of Respondent Nos. 3 and 4. Along with the said rejoinder, the applicant has filed the order dated 7.4.2004 passed by the Patna Bench of the Central Administrative Tribunal in O.A.No. 40 of 1997 (Krishna Chaudhary v. Union of India and others). The applicant has submitted that his claim is squarely covered by the said decision of the Patna Bench in Krishna Chaudhary's case. The applicant has also submitted that he is entitled to the pensionary benefits for the service rendered by him in the Central Government/DAVP (Respondent Nos.1 and 2) from 4.6.1990 to 27.12.2001 when he was confirmed/absorbed in the cadre of EO/AAO in the EPFO after completion of his two years probation, vide Annexure A/17.

10. From the pleadings of the parties and the documents produced by them in this case, it is amply clear that the applicant was in the Central Government pensionable service from 4.6.1990 to 24.12.1999 when his 'technical resignation' was accepted. He joined as EO/AAO on 27.12.1999 in the EPFO, a statutory body under the administrative control of the Ministry of Labour, Government of India, where Pension Scheme is applicable. In terms of the order of appointment, dated 7.12.1999 (Annexure A/16), issued by the EPFO, the appointment of the applicant was temporary and confirmation in the post was subject to his satisfactory completion of probation for a period of two years. By Annexure A/17, the order dated 3.1.2002 issued by the EPFO, the service of the applicant was confirmed with effect from 27.12.2001 when apparently the applicant successfully completed the probation period of two years. The lien on the post retained by the applicant in the Central Government/DAVP, in terms of FR 13 and the Government of India's



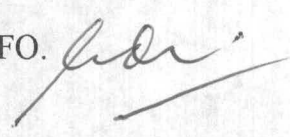
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order, stood terminated only with effect from 27.12.2001 when the applicant was confirmed and/or permanently absorbed in the EPFO in as much as the lien of the applicant on the post held by him in the Central Government/DAVP service could not have been terminated even with consent of the applicant. Therefore, the applicant, in terms of Rule 37(3) of the CCS (Pension) Rules, 1972, was entitled to exercise option either to count the service rendered under the Central Government in the EPFO or to receive pro rata retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government, for the period from 4.6.1990 to 27.12.2001, i.e., the date when he was permanently absorbed/confirmed in the EPFO. The applicant had made representations (Annexure A/6, Annexure A/8, Annexure A/11) during 2003, 2004 and 2005 requesting Respondent Nos. 1 and 2-DAVP to consider his claim for payment of pensionary/retirement benefits for the service rendered by him in the Central Government. The applicant ^{furnished} ~~submitted~~ the requisite information by submitting Form 3 (details of family), Form 5 (particulars of the Government servant), specimen signature and other documents, vide Annexure A/11.

11. The grievance of the applicant is that at all relevant times he was claiming the pensionary/retirement benefits for the service rendered by him in the Central Government service from 4.6.1990 till 27.12.2001 when he was absorbed/confirmed in the EPFO. His representations were duly forwarded by the Respondent-EPFO to Respondent-DAVP for considering his claim in accordance with rules. As the settlement of his claim was unduly delayed by Respondent-DAVP, he had filed the O.A. During pendency of the OA and after receipt of the

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notice from the Tribunal, Respondent-EPFO, without calling for option or otherwise and without any basis, indicated to Respondent-DAVP that on receipt of the Retirement Gratuity and Service Gratuity from DAVP, the applicant's service would be counted for the purpose of pensionary benefits in the EPFO. Acting on that intimation, Respondent-DAVP issued office orders dated 26.7.2006 (Annexures A/14 and A/15) remitting the Service Gratuity and Retirement Gratuity to the EPFO with a view to negating the claim of the applicant to get pensionary benefits for the service rendered by him to the Central Government from 4.6.1990 till 27.12.2001 when he was permanently absorbed in the EPFO. Undoubtedly, in such an event, the applicant is not forfeiting his claim for any pensionary benefits for the period of service in the Central Government from 4.6.1990 in as much as the same would be counted towards his pensionary benefits in the EPFO. But the claim of the applicant is that when under Rule 37(3) of the CCS (Pension) Rules, 1972 read with Government of India's decision contained in the O.M. dated 31.3.1987 issued by the Government of India, Pension and Pensioner's Welfare Department, he has a right to exercise his option for either of the same and admittedly his successive representations to the Respondent-DAVP were for getting the pensionary benefits, Respondent Nos. 1 and 2-DAVP should not have unilaterally remitted the Service Gratuity and Retirement Gratuity. With regard to this, Respondent Nos. 1 & 2-DAVP have claimed that the applicant was in the Central Government service up to 24.12.1999 and that he was entitled to count the period from 4.6.1990 to 24.12.1999 as qualifying service for pensionary benefits in the EPFO.



12. In order to appreciate the contention of the applicant that Respondent Nos. 1 and 2-DAVP have acted contrary to rules and Government of India orders by issuing orders 26.7.2006 (Annexures A/14 and A/15) disallowing his claim for pensionary benefits for the service rendered by him from 4.6.1990 to 26.12.1999 and till 27.12.2001 when he was absorbed and remitting the Service Gratuity and Retirement Gratuity to the EPFO only for the period from 4.6.1990 to 24.12.1999 without taking into account the date of his absorption, i.e., 27.12.2001 when his lien could be terminated under the rules, it is relevant to note here that Rule 37(3) of the CCS (Pension) Rules, 1972 provides that where there is a pension scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive pro rata retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government. The matter relating to transfer of Central Government servants to Central Autonomous Bodies has been elaborately dealt with and clarified by the Government of India, Department of Pension and Pensioner's Welfare, O.M. dated 31.3.1987. It has been laid down in the said O.M. that since the Government servants are deemed to have retired from Government service on the date of absorption, the procedure laid down in Chapter VIII of CCS (Pension) Rules, 1972, which applies to Governments servants who retire in normal course, should mutatis mutandis apply in the case of Government servants who are absorbed in the public interest in a Public Sector Undertaking or in an Autonomous Body. In view of these provisions contained in



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the Rule and the Government of India's orders and when the applicant was admittedly claiming pensionary benefits by submitting successive representations and the requisite information in the prescribed form which, in my considered view, constitute the applicant's option exercised under Rule 37(3) of the CCS (Pension) Rules, 1972, to receive pro rata retirement benefits for the period from 4.6.1990 to 27.12.2001, the decision of Respondent Nos.1 and 2-DAVP, as contained in the orders dated 26.7.2006 (Annexures A/14 and A/15), cannot be held to be just, proper and reasonable.

13. So far as the question of period of service rendered by the applicant to the Central Government is concerned, the applicant, relying on the case of Krishna Chaudhary's (supra), has contended that he is entitled to the pensionary benefits under the rules for the period from 4.6.1990 to 27.12.2001, i.e., date when he was absorbed in the EPFO. Respondent Nos. 1 & 2-DAVP have pleaded that the applicant was in the Central Government service up to 24.12.1999 and in the service of the EPFO from 27.12.1999. As pointed out in the preceding paragraph, under FR 13(1) and Government of India's order issued thereunder, the applicant was entitled to retain his lien on the post in the Central Government for two years which could not have been terminated even with his consent and therefore, he is entitled to get the benefits for the period from 4.6.1990 to 27.12.2001, i.e., the date when he was confirmed/absorbed in the EPFO and his lien on the post in the Central Government stood terminated by operation of rules, as has been held by the Patna Bench of the Tribunal in Krishna Chaudhary's case (supra). It has also been observed by the Patna Bench of the Tribunal ^{on the basis of} ~~in that order~~ same analogy ~~that~~ one

[Signature]

Shri J.P.Upadhyaya, who was earlier working in the Ministry of Defence as Assistant and was relieved of his duty from that office w.e.f. 15.7.1994 to join as APFC in the EPFO, was allowed to retain his lien in the AFHQ Civil Service for two years till the date of his absorption/confirmation in the EPFO. In this view of the matter, Respondent Nos.1 and 2-DAVP have to take into account the service of the applicant from 4.6.1990 to 27.12.2001 for the purpose of determination of pensionary benefits in his favour subject to the EPFO discharging its liability in respect of the period from 27.12. 1999 to 26.12.2001 in accordance with the Government of India's order.


14. In view of the conclusions arrived at above, the letter dated 23.5.2006 (Annexure A/13) issued by Respondent No. 4 requiring Respondent No.2-DAVP to remit Retirement Gratuity and Service Gratuity to it in respect of the applicant, as well as the orders dated 26.7.2006 (Annexures A/14 and A/15) issued by Respondent No.2 are quashed. Respondent Nos.1 and 2 are directed to consider the claim of the applicant for payment of the pro rata pensionary benefits taking into account the period of his service under the Central Government from 4.6.1990 to 26.12.2001 and take a decision determining the same. If the pro rata pensionary benefits ^{is} ~~be~~ found admissible to the applicant, then the same shall be paid to the applicant within a period of 30(thirty) days from the date when such decision would be taken. Respondent Nos. 3 and 4 are also directed to discharge their liability in the matter under the rules. The entire exercise shall be completed by the Respondents within a period of six months from the date of receipt of copy of this



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order. But, in the facts and circumstances of the case, the applicant's prayer for payment of interest is disallowed.

15. In the result, the Original Application is allowed to the extent indicated above. No costs.


(N.D. RAGHAVAN)
VICE-CHAIRMAN

PPS

fix for pronouncement
on 03.10.07 at PM.
