

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 417 of 1996

Friday, this the 4th day of July, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. P.V. Ramakrishnan,
Assistant Registrar of Co-operative
Societies (On leave),
Office of the Registrar of Co-operative
Societies.
Gouri Nivas, PO Koodali,
Kannur District. .. Applicant

By Advocate M/s K.V. Sohan (represented)

Versus

1. Union of India represented by
Secretary to Government,
Ministry of Home Affairs,
Secretariate, New Delhi.
2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
3. Registrar of Co-operative Societies,
Department of Co-operation and Civil
Supplies, Union Territory of Lakshadweep,
Kavaratti District.
4. The Secretary, The Lakshadweep
Co-operative Marketing Federation Ltd.,
Beypore, Calicut District. .. Respondents

By Advocate Mr. S. Radhakrishnan, ACGSC

The application having been heard on 4.7.1997, the
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to declare that he is eligible
and entitled to draw 'Island Special Pay' while he was
on deputation, to direct the 4th respondent to release
the 'Island Special Pay' and other allowance while he was

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on deputation from September 1972 to March 1976 and April 1986 to April 1990, to direct the 3rd respondent to issue a revised last pay certificate, and to quash A-VI order issued by the 3rd respondent.

2. The applicant (who is now retired) was working as Assistant Registrar, Co-operative Societies under the Co-operative Department of Lakshadweep Administration. As per R1 dated 30.4.1986 sanction was accorded to the deputation of the applicant to the Lakshadweep Co-operative Marketing Federation, Beypore, Calicut for appointment as its Secretary for a period of 3 years under the terms and conditions stipulated in the annexure, while he was working as Co-operative Inspector, Minicoy. The representation A-V submitted by the applicant claiming special pay while working on deputation in the mainland was rejected as per A-VI, the impugned order, on the ground that the applicant is not entitled for 'Island Special Pay' while serving in the mainland on deputation.

3. In the reply statement filed by the respondents it is stated that the applicant is not entitled to Island Special Pay for the reason that the same is sanctioned for the period of duty in the islands due to the remoteness and hard living conditions prevailed in the islands. It is also stated that as per R2 order Island Special Pay is not admissible for the period of duty in the mainland. During the period of deputation the applicant was working in the mainland and not in the island.

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4. The learned counsel appearing for the applicant did not bring to my notice any rule which empowers or authorises or entitles the applicant to draw Island Special Pay while xxxxxxxx xxxxxxxx xxxxxxxx xxxxxxxx xxxxxxxx on deputation in the mainland. The learned counsel for the applicant drew my attention to A-1, wherein it is stated that during the period of deputation the person on deputation will have the option either to get his pay fixed in the deputation post under the operation of the normal rules or to draw pay of the post held by him in his parent department plus a deputation (duty) allowance in accordance with and subject to the conditions, as modified from time to time and such other general or special orders issued by the Ministry of Finance (Emphasis supplied). This particular portion contained in A-1 does not contain even a syllable either expressly or by implication to the effect that a person on deputation is entitled for Island Special Pay. What is stated therein is that 'a deputation (duty) allowance'. Allowance is different from Special Pay. One cannot confuse Special Pay with deputation (duty) allowance. Both are distinct. So, by a plain reading of the portion brought to my notice, it is very clear that it has got no application with regard to the claim for Island Special Pay. It deals only with deputation (duty) allowance. Even if it deals with Island Special Pay, it can only be subject to the conditions as modified from time to time and such other general or special orders issued by the Ministry of Finance. What are the conditions as stood

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for the relevant period enabling the applicant to claim Island Special Pay have neither been mentioned in this original application, nor submitted across the Bar. So, the position is that A-1 is absolutely of no help to the applicant.

5. The learned counsel appearing for the applicant drew my attention to the order passed by this Bench of the Tribunal in O.A.No. 896/86. At the very outset, it is to be said that that order has absolutely no application to the facts of the case at hand for the simple reason that in that case the applicants are the persons deputed from the mainland to the Islands of Lakshadweep, Minicoy and Amindivi. Here it is a case where the applicant is working in the mainland.

6. The learned counsel for the applicant drew my attention to another order of this Bench of the Tribunal in O.A.No. 1274/91. There it was a case of the applicants working in Minicoy and Amini Islands in Lakshadweep on deputation from mainland. Here it is just the other way. So, the said order has got no application to the facts of the case at hand.

7. The learned counsel appearing for the respondents relying on R-1 submitted that deputation of the applicant from Minicoy Island to the mainland was subject to the terms and conditions stipulated in the annexures to R-1 and by going through the annexures to R-1, it can be clearly seen that there is no mention for payment of Island

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Special Pay for any person sent on deputation from the island to the mainland. Special reference is made by the learned counsel for the respondents on this aspect to para 6 of R-2. Para 6 of R-2 says that:

"The President is further pleased to sanction with effect from the date of the issue of these orders a special pay of 40% of basic pay, subject to a maximum of Rs.350/- per month and to all officers who are deputed to the islands from the mainland. This special pay will not be admissible for the period of duty on the mainland."

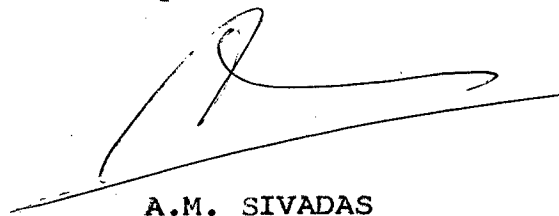
So, it is very clear that a person who is deputed to the mainland is not entitled to Island Special Pay.

8. So, the position is that the applicant is not entitled to Island Special Pay during the period he had worked in the mainland on deputation. It appears that on the eve of retirement of the applicant with an attempt to knock off some money he has come forward with this original application. It is quite unfortunate that a person who was working as Assistant Registrar of the Co-operative Societies, a responsible post, pretends to be quite unaware of the rules and orders in force as to deputation.

9. As it is quite clear from para 6 of R-2 that the applicant is not entitled to Island Special Pay during his deputation to the mainland and no rule or order or any authority in support of the claim of the applicant that he is entitled to Island Special Pay during his period of deputation to the mainland ^{is produced,} the applicant is not entitled to any relief and the application is only to be dismissed.

10. Accordingly, the original application is dismissed.
No costs.

Dated the 4th of July, 1997


A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES

- Annexure AI : A true copy of an abstract of the Fundamental Rules.
- Annexure AV : A true copy of the representation submitted by applicant to the 3rd respondent dated 12-5-1995.
- Annexure AVI : A true copy of the office Memorandum sent by 3rd respondent to the applicant dated nil No.F.No.25/14-95-Coop.
- Annexure R 1 : A true copy of the Proceedings with terms and conditions F.No.25/45/85-Coop(1) dated 27.3.1996 issued by the 2nd respondent.
- Annexure R 2 : A true copy of the Letter No.71/4(8)58-ANL dated 28.3.1958 issued by 1st respondent to the 2nd respondent.

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