

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO. 429/2002

Monday, this the 18th day of November, 2002.

CORAM;

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

T.Annie,  
W/o late T.K.DEvassy,  
Thayattu Line,  
Athirakom, Mundayadu.P.O.  
Canannore.

- Applicant

By Advocate Mr CSG Nair

Vs

1. Station Commander,  
Station Head Quarters,  
Defence Security Corps,  
Canannore-670 013.
  2. The Director General,  
Defence Security Corps,  
G.S.Branch,  
Army Headquarters,  
West Block-III,  
Ramakrishnapuram,  
New Delhi.
  3. Union of India,  
represented by the Secretary  
Ministry of Defence,  
South Block,  
New Delhi-110 001.
  4. Chief Controller of Defence Accounts(P),  
Allahabad.
  5. Controller of Defence Accounts,  
Teynampet,  
Chennai-600 001.
- Respondents

By Advocate Mr K.Shri Hari Rao, ACGSC

The application having been heard on 18.11.2002 the Tribunal on the same day delivered the following:.

O R D E R

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant in this case is the widow of late T.K.Devassy, who, while working as a Safaiwala (~~working~~) under the 1st respondent, died on 10.7.2000 when he had already put in more than 37 years of service. The applicant had claimed terminal benefits along with family pension, on her husband's death. Since the claims were not granted, she approached this Tribunal by filing O.A.No.382/2001. By order order dated 31.5.2001, this Tribunal expressed the view that the respondents ~~ought~~ to have "acted with utmost expedition and settled the claims instead of driving the poor widow to the task of seeking redressal before the Tribunal." Since the applicant did not get the expected reliefs inspite of the Tribunal's order, she moved a Contempt Petition(Civil) No.48/2001. After considering the facts and taking note of the fact that the respondents had made laborious attempt for giving effect to the directions of the Tribunal, the C.P.(C) was closed. Inspite of the passage of considerable time thereafter, the applicant does not appear to have got all the dues. Hence this O.A. seeking the following reliefs:

- i) To direct the respondents to draw and pay the balance amount outstanding in the GPF of late T.K.Devassy as on 10.7.2000 with interest @ 12% per annum within a stipulated period.

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ii) To direct the respondents to issue orders granting 2nd financial upgradation of late T.K.Devassy with effect from 9.8.99 and grant all consequential benefits to the applicant including arrears of pay, arrears of DCRG, arrears of leave salary, and arrears of family pension etc. with interest @ 12% per annum within a stipulated period.

iv) Direct the 1st respondent to refund the amount of Rs.1,000/- recovered from the pension dues as per A-8 with interest @ 12% per annum.

2. The respondents have filed a reply statement stating that the debit balance in the GPF account as advised by the Joint Controller of Defence Accounts(JCDA for short)(Funds), Meerut requires further scrutiny in order to find out how exactly the debit balance has arisen since the JCDA is the authority who maintains the account. Apparently the respondents seem to think that A-5 communication cannot be taken as the authority for considering the actual GPF balance due to <sup>the</sup> applicant. With regard to Rs.1000/- withheld from the DCRG due to the applicant, it is submitted that necessary steps have been taken to disburse the amount to the applicant.

As far as the applicant's claim for 2nd financial upgradation is concerned, the respondents have contended that the late T.K.Devassy was not eligible for ACP since he had also been granted the placements from S1 to S2 and from S2 to S3 scales as done in the cases referred to in the 5th respondent's communication dated 12.9.2000 [R1(e)]. However, it is

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disclosed that the 1st respondent has approached the 5th respondent vide R-1(c) communication dated 8.7.2002 to re-examine the case of Shri T.K.Devassy for financial upgradation.

3. The applicant has filed a rejoinder contesting, wherever required, the assertions made in the reply statement.

4. I have heard Mr CSG Nair, learned counsel for applicant and Mr Shri Hari Rao, learned ACGSC for the respondents.

5. Mr CSG Nair has pointed out that the applicant who entered service as Safaiwala died as Safaiwala after 37 years of service, that he never got any financial upgradation as envisaged under ACP Scheme, that for Group 'D' employees the GPF account being maintained by the Head of the Department, i.e. the 1st respondent, there should not be any discrepancy with regard to the figures given in A-5 communication and that the applicant was entitled to interest on the delayed payment of DCRG including the withheld amount Rs.1000/- not yet paid. It is also pointed out by the learned counsel that the applicant's late husband was entitled to get financial upgradation with effect from 9.8.99, the date of coming into force of the ACP Scheme till he died and the consequential monetary benefits including arrears of pay and resultant retiral benefits. With regard to interest, learned counsel for the applicant would strongly contend that the DCRG amount including the withheld amount of Rs.1000/- ought to have been

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paid within three months of the death of the applicant's husband and that having regard to the earlier direction of the Tribunal which was not complied with, the applicant was entitled to 12% interest from 10.10.2000. Mr Shri Hari Rao learned ACGSC would rely on the pleadings in the reply statement and would maintain that since the GPF accounts are centralised at Meerut, the report of debit balance as per A-4 needed a second look instead of following A-5 communication as such. The DCRG amount of Rs.1000/- having been ordered to be paid to the applicant there could be no grievance in that regard. With regard to the financial upgradation, the applicant's late husband is not entitled to 2nd financial upgradation since placements in pay scales S2 and S3 were allowed to him as mentioned in para 8 of the reply statement, the learned ACGSC would urge.

6. I have perused the case records and the rival contentions put forward by the learned counsel on either side. At the outset, it is noticed that inspite of clear directions from this Tribunal and the expression of this Tribunal's unhappiness on the delay in granting the terminal benefits due to the applicant, the respondents did not seem to have taken diligent steps to abide by the directions. This is inspite of the closure of the Contempt Petition after a fair recognition by the Tribunal that steps had been taken by the respondents in that regard. I find that the hopes reposed in the respondents have been belied. With regard to the claim of GPF, I notice that the alleged debit balance as reflected. A-4 communication from JCDA, Meerut dated 24.10.2000 <sup>while</sup> exactly

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one year thereafter, the 1st respondent is seen to have examined the records and advised the JCDA as per A-5 that the figures furnished in A-4 were incorrect inasmuch as the actual balance to the credit of the employee was Rs.24,056/- for 2000-2001, presumably comprising the GPF balance along with accrued interest. In my opinion, there is no reason why A-5 should not be taken as authentic. The GPF balance to the credit of the applicant's husband for the year 2000-01 in terms of Government accounts was Rs.24,056/- and the applicant is entitled to that amount along with interest for the intervening period thereafter till the date of actual payment if the said credit balance reflects the proper admissible interest for 2000-2001. With regard to Rs.1000/- withheld from DCRG share due to the applicant, as mentioned earlier, the admitted amount has been ordered to be paid but it is noticed that no interest has been allowed on the amount of DCRG already given. The applicant is entitled to interest on the DCRG amount including the withheld amount of Rs.1000/- from 1.11.2000 till the date(s) of actual payment thereof. Coming to the question of financial upgradation, the only objection raised by the respondents is that the applicant has been given certain scales pertaining to Safaiwala on account of periodical revision. There is no evidence to suggest that the ACP benefits as claimed from 9.8.99 the date of coming into force the ACP scheme was granted to the applicant. The mere fact that certain scales were given to similarly placed Safaiwalas as per R1(e) does not mean that the applicant got the financial upgradation visualised under ACP Scheme. Having

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regard to this, I am convinced that the applicant is entitled to the 2nd financial upgradation in view of the fact that the applicant had put in 37 years of service as Safaiwala as on the date of death.

7. Accordingly, the O.A. is disposed of with the following directions:

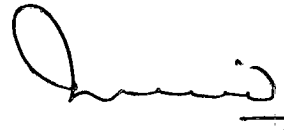
The respondents are directed to draw the amount of credit balance outstanding in the GPF account of late T.K.Devassy as on 10.7.2000 with reference to A-5 communication dated 18.10.2001 along with further interest at the admissible rate and pay the aggregate amount to the applicant. The respondents are also directed to grant the benefit of second financial upgradation to late T.K.Devassy with effect from 9.8.99, refix his pay as on that date in accordance therewith, determine the monetary benefits by way of arrears due to him till his death and thereafter on account of fixation of family pension and to pay the aggregate amount to the applicant. It needs to be specifically mentioned here that consequently all other terminal benefits including DCRG should also undergo revision in the light of financial upgradation ordered as above and that no interest need be paid on the amount so payable consequent to the financial upgradation. The respondents are further directed to pay the withheld DCRG amount of Rs.1000/- to the applicant along with interest calculated at the rate

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of 10% on the DCRG amount already paid and the withheld amount of Rs.1000/- from 1.11.2000 till the date(s) of actual payment thereof. The above directions shall be carried out within a period of four months from the date of receipt of copy of this order.

8. There is no order as to costs.

Dated, the 18th November, 2002.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

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APPENDIX

Applicant's Annexures:

1. A-1: A true copy of the order dt.31.5.2001 in O.A.No.382/2001.
2. A-2: A true copy of the order in C.C.P.No.48/2001.
3. A-3: A true copy of the representation dt.29.5.2002 submitted to the 1st respondent.
4. A-4: A true copy of the letter No.4001/17/Est. dt.7.6.2002 issued by the 1st respondent.
5. A-5: A true copy of the letter No.4001/17/Est. 18.10.2001 addressed to the Joint Controller of Defence Accounts (Funds), Meerut Cantt by the 1st respondent.
6. A-6: A true copy of the memo No.4001/17/Est dt.18.12.2001 issued by the 1st respondent.
7. A-7: A true copy of the letter NO.4001/17/Est dated 20.3.2002.
8. A-8: A true copy of the pension sanction order No.EDP/C/Misc/88/232/3/2001 dt.--6.2001 addressed to the 1st respondent by the 4th respondent.

Respondents' Annexures:

1. R-1a: True copy of the letter No.GP/MSLT/IV/338237/507 dated 24.10.2000 of the JCDA (Fund) Meerut to the 1st respondent.
2. R-1b: True copy of the letter No.4001/17/Est. dated 10.10.01 of the 1st respondent to JCDA (Fund) Meerut.
3. R-1c: True copy of the letter dated 8.6.02 of the 1st respondent to JCDA (Fund) Meerut.
4. R-1d: True copy of the letter dated 7.7.2002 of the 1st respondent to JCDA (Fund) Meerut.
5. R-1e: True copy of the letter No.P/III/405/SHQ Kannur dated 12.9.01 of the 5th respondent to the 1st respondent..

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25.11.02