

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.446/11

Friday this the 26th day of August 2011

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

K.J.George,
S/o.Joseph,
Engine Fitter (SK),
Naval Ship Repair Yard,
Naval Base, Kochi – 4.
Residing at Keettuparambil House,
Komarath Lane, Azad Road, Kaloor.

...Applicant

(By Advocate Mr.T.A.Rajan)


V e r s u s

1. Union of India represented by Secretary,
Government of India, Ministry of Defence,
New Delhi – 1.
2. The Flag Officer Commanding in Chief,
Head Quarters, Southern Naval Command,
Naval Base, Kochi – 4.
3. The Chief Staff Officer (P&A),
Head Quarters, Southern Naval Command,
Naval Base, Kochi – 4.
4. The Commodore Superintendent,
Naval Ship Repair Yard,
Naval Base, Kochi – 4.
5. Administrative Officer Grade I,
Senior Staff Officer (CP),
Head Quarters, Southern Naval Command,
Naval Base, Kochi – 4.

...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 26th August 2011 this Tribunal
on the same day delivered the following :-



.2.

ORDER

HON'BLE Dr.K.B.S.RAJAN. JUDICIAL MEMBER

This is a very simple case. Annexure A-7 order dated 16.2.2010, inter-alia, reads as under :-

"5. In view of the above decision, we quash and set aside the Annexure A10 letter of the respondents dated 26.08.2008 and allow this O.A. Consequently, we declare that the applicant was entitled to be appointed to the post of Engine Fitter w.e.f. 21.08.2001. The respondents shall, therefore, antedate his appointment to the aforesaid post to 21.08.2001 and grant all consequential benefits including seniority. However, the applicant will not be entitled for any back wages. The aforesaid direction shall be carried out within a period of two months from the date of receipt of a copy of this order. There shall be no order as to cost."

2. Vide Annexure A-9 the above order was implemented in letter and spirit which is evident from para 2 which reads as under :-

"2. It is intimated that, in compliance to the Hon'ble CAT Order dated 16 Feb 2010 in O.A.764/2008, necessary action has been initiated for the following :-

(a) Antedating your appointment to the post of Engine Fitter (SK) to 21 Aug 2001 for the purpose of seniority in the trade.

(b) Granting of annual increment considering the date of appointment as 21 Aug 2001 till the date of CAT Order in the subject case on notional basis and re-fixation of pay accordingly."

3. With the above order, it is evident that the initial date of appointment of the applicant was 21.8.2001 and increments have been granted to him on completion of one year therefrom.



.3.

4. Insofar as entitlement to pension under the old pension scheme [CCS (Pension) Rules, 1972], the individual should be in employment prior to 31.12.2003 and should have the requisite qualifying service. Insofar as revised pension scheme is concerned, the same is applicable to those recruits whose recruitment date falls on or after 1.1.2004. Admittedly, in the case of the applicant, his initial date of appointment is anterior to 1.1.2004 which means that he is covered by old pension rules [CCS (Pension) Rules, 1972]. That the applicant was not physically present from 2001 to 2004 will not have any impact on the entitlement of the applicant to the pension under the CCS (Pension) Rules, 1972. As such, para 3 of Annexure A-9 order whereby the applicant is treated as one covered under the new pension scheme is quashed and set aside. It is declared that the applicant is entitled to pensionary benefits under the CCS (Pension) Rules, 1972 subject to fulfilling the requisite conditions contained therein. Any amount recovered towards contribution under the new pension scheme shall be refunded to the applicant within a period of two months from the date of receipt of a copy of this order. No order as to costs.

(Dated this the 26th day of August 2011)


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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