

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE 7.3.90

PRESENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 470/89

K. N. Kuttappan Nair

Applicant

Vs.

1. The Post Master General,
Kerala Circle, Trivandrum
2. The Secretary, Department of Posts,
Government of India, New Delhi
3. The Director General, Department of
Posts, New Delhi
4. The Secretary, Ministry of Defence,
Central Secretariat, New Delhi and
5. The Sr. Supdt. of Post Office
Trivandrum North, Trivandrum

Respondents

Mr. S. Gopakumaran Nair

Counsel for the
applicant

Mr. K. Karthikeya Panicker, ACGSC

Counsel for the
respondents

ORDER

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant is an Ex-serviceman re-employed as a time scale Clerk in the Postal Department with effect from 13.8.1968. He retired from the Postal Department w.e.f. 30.6.1977. The applicant opted for surrender of his military pension in favour of getting civil pension on re-employment after counting of the military service.

His grievance is that for this purpose the service rendered by him in the erstwhile Travancore State Forces from 16.3.1937 to 31.3.1951 have not been taken into account in calculating the civil pension.

2. The respondents have stated in Para 4 of their reply that in consultation with the Department of Pension and Pensioners' Welfare, it has been decided to accede to the request of the applicant to count the service rendered in the Travancore Cochin State Force as a special case. However, this is hedged by two conditions. The first is that the benefit is to be allowed only if conditions stipulated in Rule 8 of the Kerala Service Rules (Vol. II Part IV) and in other Government orders are fully satisfied. When the case came up today for final hearing, Shri K. Karthikeya Panicker, ACGSC the learned counsel for the Respondents, agreed that this condition would be dropped.

3. The second condition stipulated is that in order to count the military service for purpose of Civil Pension, the applicant has to refund the terminal benefits received by him *in respect of his service* when he was in the Travancore Cochin State Force and in the Indian Army with simple interest at 6% per annum. The applicant, on the contrary contends that whatever amount is to be recovered from him may be adjusted against the final amount due to be paid to him by the respondents. In this regard

also, the learned counsel for the respondents agreed that the respondents will not have any objection to such a settlement.

4 The applicant is satisfied with the concession made to-day. (We are also of the same view. In the circumstances, we find that as the reliefs prayed for have been granted by the respondents, nothing remains for adjudication in the present application. Hence the application should only be closed in the normal circumstances.

5 However, there is one special feature and we have to refer to it and we also find it necessary to issue a direction to the respondents in that regard. The applicant retired from Army service in March, 1961. He was re-employed in the Postal Department in August, 1968 from where he retired in June, 1977. It is seen from para 2 of the reply affidavit that the service rendered by the applicant in the Travancore Cochin State Force was already reckoned as due service when his military pension was sanctioned. That being the case, the respondents should not have taken such a long time to decide this issue. Therefore, there can be no question of the respondents charging any interest from the applicant on the amount of military pensionary benefits to be refunded by him and the respondents are also not being directed to pay any interest on the amount due to the applicant, in case it is paid within the time/
stipulated by us.

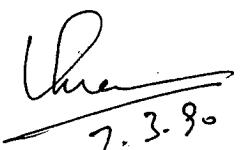
6. Hence the application is allowed with the following directions:

- (i) The respondents should count the period of service rendered by the applicant with the Travancore Cochin State for computing his civil pension on his retirement on re-employment from Postal Department.
- (ii) The respondents shall not charge any interest on the terminal benefit the applicant got on his retirement from the Army, which he is required to refund for counting the military service for civil pension.
- (iii) The amount to be so refunded should be set off by the respondents from the amount due to be paid to the applicant.
- (iv) The civil pension due shall be re-calculated and the amount found due to be paid to the applicant shall be paid as expeditiously as possible and in any case not later than three months from the date of receipt of a copy of this order, considering that the applicant had retired as early as on 30.6.1977.

7. The parties will bear their own costs.


(N. Dharmadan)
Judicial Member

7.3.90.


(N. V. Krishnan)
Administrative Member

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