

केन्द्रीय प्रशासनिक अधिकरण न्यायपीठ में
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
आदेश पत्र
ORDER SHEET

आवेदन सं० 200 का
ORIGINAL APPLICATION No. 471 of 2004

आवेदक
Applicant(s) **M. Ramachandran**

प्रत्यर्थी
Respondent(s) **UII rep.by Secy., Public
Grievance Cell and 2 Ors**

आवेदक (आवेदकों)
की ओर से अधिवक्ता
Advocate for **M/s P. Somachudan Nair &
Applicant(s) K. John Panicker**

प्रत्यर्थी (प्रत्यर्थियों)
की ओर से अधिवक्ता
Advocate for
Respondent(s)

रजिस्ट्री के टिप्पण
Notes of the Registry

अधिकरण के आदेश
Orders of the Tribunal

प्रस्तुतीकरण की तारीख :
Date of Presentation : **29.4.04**
22.6.04
पंजीकरण की तारीख :
Date of Registration : **23.6.04**
विषय :
Subject: **Retirement benefits**
तैनाती की तारीख :
Date of Posting : **24.6.04**

24.6.04 **C-I**
(5) Mr. P. Somachudan Nair
~~Mr. P. Somachudan Nair~~ (no representation)
Heard. Order pronounced in the open court.

AVH(VC)

Clarification was sought as to how the OA is maintainable in view of Annexure A-6 Judgement, Counsel's remarks thereon is :
"The question of maintainability may be referred to the Bench."

The case is placed before the Hon'ble Bench.

F.O. verified

Mr. P. Nair

Final Order issued on 09/7/04

09/7/04

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Ref Pre-page.

WPC 25644/04 against the final order in OA 471/04 has been disposed of on 3.6.05 in favour of the petitioner to the extent that he may be given the benefits due as if he resigned from service after 15 years of good service.

A copy of the judgement may be placed before the Hon'ble VC and the Hon'ble Members for kind perusal.

OK
27/7/05

Pa C
28/7

DR

Registrar

Hon'ble VC

Hon'ble Member (G)

Hon'ble Member (A)

Shaw

28/7/05

29/7/05

Omman
28/7/05

SD
28/7/05

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Ref: High Court of Kerala Order/Judgement dated... 17/2/04...
in O.P. No. (WP(C)) No. 25664/04-S (Flag '4')
WP(C) ... M. Ramachandran ... has/have preferred
O.P. No. 25664 ... of 2004-S ... in the High
Court of Kerala against the order of this Tribunal dated
24/6/04 ... in O.A. No. 421/04 ... The High Court
vide its Order/Judgement dated ... has:

- ✓ i) Issued Notice
ii) Stayed the operation of the order of the Tribunal
dated ... in O.A. No. ...
iii) Dismissed/Allowed/Disposed the O.P. No. ...
with direction.

The order of the Tribunal was delivered by :

Hon'ble Mr. A. V. Haridasan, Vice Chairman
&
Hon'ble Mr. ...
which is placed at flag. X

The aforesaid Order/Judgement of the High Court of Kerala
may be placed before the Hon'ble Vice Chairman and the Hon'ble
Members of the Bench who had delivered the order for kind perusal

29/9/04

28/9/04

28/9/04

DR

29/9/04

Register

Hon'ble Vice chairman

29/9/04

Mr. Manohar
29/9

THE HIGH COURT OF KERALA

No. W.P.C. 25644/04-S

From

THE REGISTRAR OF THE HIGH COURT

To The Registrar, CAT, Ernakulam

Ernakulam,

Dated 30/6/05

Sir,

I am to forward herewith a copy of Judgment in

W.P.C. 25644/04
O.P. No.

for information and necessary action.

Yours faithfully,

Encls:

A

B. 11/7

W. Rev.

Section Officer
For Registrar.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 3RD JUNE 2005 / 13TH JYAISHTA 1927

WP(C) No. 25844 of 2004(S)

OA.471/2004 of CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
.....

PETITIONER:

M.RAMACHANDRAN, S/O. MALAI,
GANGMAN (RETD.) NO.413 (PF.NO.282340)
(WLE AIC) SOUTHERN RAILWAY AT NALATINPUZHUR
NOW RESIDING AT TC.NO.33/1926, THYVILAKOM HOUSE,
KOCHUVELI, THIRUVANANTHAPURAM.

BY ADV. SRI.P.SOMACHUDAN NAIR
SMT.V.SUMITA

RESPONDENTS:

1. UNION OF INDIA REPRESENTED BY SECRETARY,
PUBLIC GRIEVANCE CELL PARLIAMENT HOUSE, NEW DELHI.
2. THE GENERAL MANAGER, SOUTHERN RAILWAY,
G.M'S OFFICE CHENNAI PARK TOWN, PIN 600 003.
3. DIVISIONAL MANAGER, SOUTHERN RAILWAYS,
MADRAS-16.
4. CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH REPRESENTED BY THE REGISTRAR.

BY ADV. SRI.VARGHESE P.THOMAS, SR.SC.RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 03/06/2005, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

J.B.KOSHY & K.T.SANKARAN, JJ.

W.P(C) No.25644 of 2004

Dated 3rd June, 2005

JUDGMENT

Koshy, J.

Petitioner was appointed in Southern Railway in a permanent vacancy with effect from 21.3.1957. According to him, he had worked as ELR from 1947 to 1951 and as ALG from 1951 to 19.3.1955 and he was working regularly from 20.3.1955. He became major only in 1957. However, in the service book the period of service was counted only from 21.3.1957 when he became permanent and boy service was not entered in the service book. It is his present case that he met with an accident and he was not well. His services were terminated by Ext.P1. Ext.P1 certificate shows that he resigned and by accepting his resignation his services were terminated with effect from 16.4.1974. Therefore, according to the Railway, the petitioner had only 17 years of service at the time of termination due to resignation. It is the case of the Railway that the petitioner has opted for Provident

W.P(C) No.25644 of 2004

Fund Scheme and therefore, he is not entitled to pension. It is the case of the petitioner that he fell down during his work and thereafter he was unable to work and therefore, his services were terminated with effect from 16.4.1974. Railway contended that the petitioner resigned from service.

2. Resignation letter as such is not available. But, endorsement in the service book is also that he resigned and his services were terminated. He was paid an amount of Rs.1,725.50 being equivalent to eight and a half months' pay as per the Provident Fund Rules. Service records also state that his option was for Provident Fund Scheme and not the Pension Scheme. Since he has opted for Provident Fund Scheme, he will not be entitled to the benefit of Pension Scheme as held in Krishena Kumar v. Union of India ((1990) 4 SCC 207). He also claimed invalid pension on the ground that he met with an accident on 16.4.1974, the alleged date of his resignation. But, that case was not substantiated. There is no evidence to show that he met with an accident. In fact, such a case was developed only when

W.P(C) No.25644 of 2004

suit notice was issued by the advocate on 26.2.2002 (Ext.P3). Till that time, his case was that he had mental disability. The letters (for example Ext.P2) sent by the wife of the petitioner show that the petitioner had some mental disability and he was under medical treatment and that is the reason for his termination in 1974. As per the direction of this court, General Manager was directed to conduct an enquiry. He also reported that there was no evidence regarding the accident occurred in 1974 involving the petitioner.

3. Earlier, the petitioner approached the Central Administrative Tribunal for the same relief. The Tribunal rejected his application on the ground of delay. However, if his entitlement of pension is admitted, delay may not be the sole ground in denying the due pension especially he being an illiterate Gangman living in poor circumstances, as held by the Supreme Court in S.K.Mastan Bee v. General manager, South Central Railway ((2003) 1 SCC 184). But, here, his entitlement of pension is denied on merit. It is

W.P(C) No.25644 of 2004

true that he has not challenged the order of the Central Administrative Tribunal even though copy of that order was enclosed in the writ petition. Since he has opted for the Provident Fund Scheme, considering service rules applicable in 1974 at the time of his termination of service, he is not entitled to get pension as per the pension rules, but, entitled to the benefits as per the Provident Fund Rules. Therefore, his claim for pension was not maintainable on merit and there was also no evidence regarding his accident so as to attract workmen's compensation claims and accident claimed was raised much later, about a quarter of century after his date of termination. Letters written by his wife would show that he has some mental problem. But, the fact remains that, after 17 years regular service, the total amount paid was Rs.1,724/=. Considering the facts of this case, we are of the opinion that the petitioner is entitled to the benefits as provided under Rule 1314 of the Provident Fund Rules as he had more than 15 years service, even if service records of the Railway is accepted. In fact, according to the petitioner, prior to 1957 also he had services. But, there is no evidence

W.P(C) No.25644 of 2004

regarding that. So, the petitioner may be given the benefits due as if he resigned from service after 15 years of good service. It is true that it will be a meagre amount. The above benefit should be given to him within three months from the date of receipt of a copy of this judgment with interest at 9% from the date of filing the writ petition (24.8.2004).

The writ petition is disposed of as above.

sd/-
J.B.KOSHY
Judge

sd/-
K.T.SANKARAN
Judge

tkc

True Copy

W.P.(C)NO.25644 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: TRUE COPY OF THE CERTIFICATE ISSUED BY THE PERMANENT WAY INSPECTOR, SOUTHERN RAILWAYS, TUTICORIN DATED 16.4.1974.
- EXT.P2: TRUE COPY OF THE REQUEST OF THE 2ND RESPONDENT DATED 30.12.2001.
- EXT.P3: TRUE COPY OF THE LAWYER NOTICE SENT TO 2ND AND 3RD RESPONDENTS ON 26.2.2002.
- EXT.P4: TRUE COPY OF THE PETITION SENT TO 2ND RESPONDENT ON 25.3.2002.
- EXT.P5: TRUE COPY OF THE REPRESENTATION SENT TO 2ND RESPONDENT ON 27.12.2002.
- EXT.P6: TRUE COPY OF THE JUDGMENT IN WP(C) 36813/2003 (G) DATED 23.2.2004.
- EXT.P7: TRUE COPY OF THE O.A.471/2004 FILED BEFORE THE 4TH RESPONDENT.
- EXT.P8: TRUE COPY OF THE ORDER DATED 24.6.2004 IN O.A.471/2004 OF THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS:

- EXT.R1: TRUE COPY OF THE OPTION FORM FOR PENSION RULES DATED 18.3.58 OF SOUTHERN RAILWAY.
- EXT.R1(A): SALARY LEDGER FOR THE PERIOD 1973-74 AND 1974-75.
- EXT.R2: TRUE COPY OF THE CHAPTER I OF RAILWAY SERVICES (PENSION) RULES, 1993.

// TRUE COPY //

TKS


SHW Section Officer

INDEX SHEET

LIST OF PAPERS IN

OA-471/04

Sl.No. Of Papers on record	Date of Paper	Description of Paper
I	II	III
1.	24-4-04	Proceedings 1 Pages
2.	24-6-04	Final Orders 3 Pages
	3/6/65	CP-
①	29-4-04	OA
	②	29-4-04 - Vakalatnama
	③	29-4-04 - Scrutiny
	④	22-6-04 - Urgent Memo