

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A 254/90

O.A 759/90

O.A 652/90

O.A 481/90 ✓

DATE OF DECISION

: 28.6.91

In O.A 254/90

K.G.Thomas

:

Applicant

M/s.P.Sivan Pillai and R.Sreekumar :

Advocates for the Applicant

vs.

The Union of India through the
General Manager, S.Railway,
Madras-13 and 4 others

:

Respondents

Smt.Sumathi Dandapani

Advocate for the Respondents

In O.A. 759/90

K.Kochukrishnan Nair

:

Applicant

Mr.P.Sivan Pillai

:

Advocate for the Applicant

vs.

Union of India through
the General Manager,
Southern Railway, Madras-3 and 4 others

Respondents

Smt.Sumathi Dandapani

Advocate for the Respondents

In O.A 652/90

K.T.John

:

Applicant

P.Sivan Pillai

:

Advocate for the Applicant

vs.

Union of India through the Gen.Manager,
Southern Rly,Madras-3 and 4 others

Respondents

Smt.Sumathi Dandapani

Advocate for the Respondents

In O.A. 481/90

M.K.Vasudevan Nair & 8 others

:

Applicants

Mr.P.Sivan Pillai

:

Advocate for the Applicants

vs.

Union of India through
the General Manager,
Southern Railway,Madras-3 and 4 others

Respondents

Mrs.Sumathi Dandapani

Advocate for the Respondents

CORAM:

THE HON'BLE MR.S.P.MUKERJI, VICE CHAIRMAN

THE HON'BLE MR.A.V.HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the judgment? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

Since common questions of facts, law and reliefs are involved in the aforesaid four applications, they are being disposed of by a common order as follows.

2. The applicant in OA 254/90 in his application dated 24th April 1990 has prayed that the impugned order dated 30.3.89 at Annexure-A6 rejecting his representation for arrears of pay and consequential benefits should be set aside and the respondents directed to fix his pay in the scale of Rs.700-900 with effect from 1.8.79 with all consequential benefits. He has also challenged the Railway Board's order dated 15/17.9.1964 at Annexure-A3 laying down that arrears of pay on account of retrospective promotion on revision of seniority would not be given, ^{and has prayed that it} should be set aside. ^{It} His further prayer is that the impugned order dated 22.6.1988 at Annexure-A4 disallowing to him the arrears on promotion on a proforma basis should be set aside. He has also claimed 12% interest on the arrears payable to him. The brief facts of the case are as follows.

3. The applicant was a Travelling Ticket Examiner in the scale of Rs.330-560 in the Trivandrum Division of the Southern Railway and he retired on 31.3.84. It transpires that the cadres of Travelling Ticket Exami-

ners and Ticket Collectors were merged with effect from 1.1.65 and in the merged seniority list published on 30.7.65 the applicant was shown as junior to one Shri Sivasubramaniam. Consequent upon a judgment of the Karnataka High Court the merged seniority list as on 1.1.1965 was revised and published on 20.5.1982 in which the applicant was shown as senior to the said Sri Sivasubramaniam. However, prior to the revision Sri Sivasubramaniam had been promoted to higher grades as follows;

Rs.425-640	on 29.6.76
Rs.550-750	on 26.11.76
Rs.700-900	on 1.8.79

One Sri Raman who had also similarly gained seniority over Sri Sivasubramaniam moved the Madras Bench of the Tribunal in O.A 141/86 claiming retrospective promotion to the higher grades and fixation of his pay in those grades from the dates Sri Sivasubramaniam had been promoted to those grades. The Tribunal vide its judgment dated 14.11.86(Annexure A2) allowed the application with the direction that the pay of the applicant therein should be notionally fixed with effect from 29.6.76 in the scale of Rs.425-640 and the stage in the pay scale arrived at on that basis should be allowed to him on 1.1.1984, when he was actually promoted. ^{and that} The consequential arrears and other benefits should also be paid to him. Based on ^{that} ~~this~~ judgment, the 4th respondent before us refixed the pay of the applicant before us in the grades of Rs.425-640 and Rs. 550-750 from the dates Sri Sivasubramaniam was promoted to those

grades i.e., with effect from 29.6.76 and 26.11.76 respectively vide the impugned order at Annexure A4. The applicant's grievance is that in that order the applicant's pay was not refixed in the still higher grade of Rs.700-900 with effect from 1.8.79 when Sri Sivasubramaniam was promoted to that grade and the applicant was not allowed arrears of pay on refixation on the ground that he did not shoulder higher responsibility in the higher post. The applicant has stated that four Travelling Ticket Examiners similarly situated like the applicant moved the Madras Bench of the Tribunal in four applications which were disposed of by the order dated 23.3.88 directing the respondents to fix the pay of the applicants therein notionally with effect from 29.6.76 in Rs.425-640, in Rs.550-750 from 26.11.76 and in the grade of Rs.700-900 from 1.8.79 along with consequential arrears and revision of pensionary benefits. A copy of the judgment has been annexed at Annexure A5. The applicant represented against the denial of refixation of his pay in the scale of Rs.700-900 and of arrears, but the same was rejected by the impugned order dated 30.3.89(Annexure A6). However, in that order it was assured that if any of his juniors is selected and empanelled for promotion in the scale of Rs.700-900(Revised Rs.2000-3200) his case also will be considered for granting proforma promotion/fixation with effect from 1.8.79. The applicant has argued that the question of his notional promotion in the various grades is to be decided on the basis of his

seniority in the old Madurai Division and promotions made or likely to be made in Trivandrum Division can have no reference to his pay fixation and promotion to various grades. In OA 470/87 which was one of the four cases decided by the Madras Bench of the Tribunal, the applicant therein Sri Ramaswamy had retired in 1985 and yet he was given notional promotion with effect from 1.8.79 vide the judgment at Annexure-A5. There is no reason why the same should be denied to him. He has argued that arrears of pay due to him is his right to property and the same cannot be denied to him because of the mistake committed by the respondents. To that extent he has challenged the provisions in the Annexure A3 order disallowing arrears in such cases.

4. In the counter affidavit the respondents have challenged the application on ground of limitation by arguing that since the revision of the seniority took place on 20.5.82, the cause of action had occurred then and cannot be challenged by this application in March, 1990. On the basis of the judgment of the Tribunal in OA 141/86 and the decision taken by the administration, the applicant along with others were granted proforma fixation in the scales of Rs.425-640 and Rs.550-750 with effect from 29.6.76 and 26.11.76 respectively. The arrears of pay consequent upon proforma fixation of pay were also allowed from the dates they actually shouldered higher responsibilities in the respective grades. Since the applicant retired on 31.3.84 and did not shoulder higher responsibility, he was not given arrears of pay. Referring to the four applications

disposed of by the Madras Bench of the Tribunal it has been stated that the three applicants therein retired after being promoted to the grade of Rs.700-900 and the 4th applicant retired in the grade of Rs.330-560 before filing the O.A. They have conceded that even though these applicants appeared in the selection in 1975 for the grade of Rs.425-640 along with Sri.Sivasubramaniam but they were not selected, but in spite of that, the Tribunal allowed these applications directing that their pay should be notionally fixed in the promoted grades of Rs.425-640, 550-750 and Rs.700-900 from the dates Sri Sivasubramaniam was promoted to those grades with consequential arrears and revision of pensionary benefits. They have stated that the applicant Sri N.Narayanan in one of the four applications disposed of by the Madras Bench of the Tribunal retired on 31.1.84 but had actually worked in the grade of Rs.700-900 with effect from 1.1.84. In accordance with the directions of the Tribunal though he was given proforma fixation of pay in that grade of Rs.700-900 with effect from 1.8.79 arrears were paid to him in that grade only from the date of his actual promotion to that grade, i.e, from 1.1.84. Similarly even though the other applicants retired on 31.1.85 and 30.6.87 they were given arrears of pay in the grade of Rs.700-900 with effect from 1.6.84 and 1.1.84, i.e, the dates on which they were actually promoted to that grade. The 4th applicant who had retired in the scale

of Rs.330-560 on 28.2.85 was given proforma fixation in the scale of Rs.425-640 and Rs.550-750 upto 31.1.82 when he was transferred to Trivandrum Division, but he was not given any arrears of pay in those grades as he did not shoulder higher responsibility. He was also not given proforma promotion in the scale of Rs.700-900 as he had retired on 28.2.85 and that was a selection post. They have argued that since the applicant before us retired in the scale of Rs.330-560 and the three applicants before the Madras Bench of the Tribunal had retired from the grade of Rs.700-900 the former is not entitled to proforma promotion to that grade. The applicant will be eligible for proforma fixation of pay with effect from 1.8.79, if according to the respondents, his junior is selected for that grade. They have asserted that the post of Chief Travelling Ticket Inspector in the scale of Rs.700-900 is a selection post and have referred to the notice at Ext.R1 by which eligible candidates were alerted to appear before the Selection Board at a short notice. They have assured that if any of the junior is selected and empanelled for selection to the scale of Rs.700-900 (Rs.2000-3200) his ^(the applicant's) case will also be considered for granting proforma promotion/fixation with effect from 1.8.79. In the rejoinder the applicant has argued that the respondents on their own gave him proforma promotion and fixation of pay in the grades of Rs.330-560, Rs.425-640 and Rs.550-750 on par with his junior Sri Sivabramaniam but did not pay him arrears of salary from the dates of

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notional promotion nor did they give him proforma promotion in the scale of Rs.700-900 with effect from 1.8.79. They, however, assured that his claim for fixation of pay in the grade of Rs.700-900 will be considered after his junior is promoted to that grade. He has produced the panel of selection to that grade which was published on 13.9.90 at Annexure A8 in which a number of persons junior to the applicant has been promoted to that grade. Accordingly he has claimed fixation of his pay in the scale of Rs.700-900 on the basis of the assurance given by the respondents.

5. In O.A 759/90 the applicant who retired as a Chief Travelling Ticket Inspector in the Trivandrum Division on 30.5.84 has similarly claimed fixation of his pay in the scale of Rs.700-900 (Revised-Rs.2000-3200) with effect from 1.8.79 with consequential revision of pensionary benefits. He has also challenged the offensive portion of Annexure A3 like the applicant in the first case, as also the note at page 5 of Annexure A4 indicating that the applicant along with others will be entitled to arrears from the actual date of shouldering higher responsibility into promotional grade. However, the applicant in this case was given promotion to the scale of Rs.700-900(Rs.2000-3200)on an adhoc basis with effect from 1.1.84 . He seeks arrears of pay in the three promoted grades

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not with effect from the date of actual promotion but from the dates on which he was promoted notionally based on the dates of actual promotion of Sri.Sivasubramaniam. The respondents have given the same grounds as in the first application repeating the assurance that the applicant will be considered for proforma fixation of pay in the scale of Rs.700-900 with effect from 1.8.79 only if his juniors are selected.

6. The applicant in the 3rd application OA 652/90 who retired from service on 31.8.89 has sought similar reliefs as the applicant in the first application for fixation of pay in the scale of Rs.700-900 (Rs.2000-3200) with effect from 1.8.79 and arrears of pay from the dates of notional promotion and striking down the offensive portion of the circular dated 15/17.9.64 at Annexure A3. The respondents have advanced the same arguments as in the case of the first application reiterating the same assurance that the applicant will be considered for proforma fixation of his pay in the scale of Rs.700-900 only if his juniors are selected. In the rejoinder the applicant has stated that since he had retired on 31.8.89 he could not have been called for selection for promotion to the scale of Rs.700-900 for which provisional panel was published on 13.9.90. By that panel eleven persons were promoted to that grade and all of them are junior to the applicant. He has claimed pay fixation in the grade of Rs.700-900 on the basis of the assurance given by the respondents.

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7. The 4th application has been filed by nine applicants claiming the same reliefs as in case of the first applicant seeking fixation of their pay in the scale of Rs.700-900 with effect from 1.8.79 and arrears in all the three promotional grades from the dates of the notional promotion of their junior Sri.Sivasubramaniam. They have also challenged the offensive portion of the circular of 15/17.9.64 at Annexure A3. While they were given notional promotions in the grades of Rs.425-640/550-750 they were not given such promotion in the grade of Rs.700-900 with effect from 1.8.79. The applicants No.1 to 9 retired from the scale of Rs.550-750 on 31.5.89 and 30.4.86 respectively, the 4th applicant retired in the scale of Rs.425-640 on 31.12.82 and the other applicants on various dates between 1.1.84 and 1.4.86 while they were on adhoc promotion in the scale of Rs.700-900(Rs.2000-3200). The respondents have given the same arguments as in the other three applications before us and stated that the applicants will be considered for proforma fixation of pay in the scale of Rs.700-900 with effect from 1.8.79 only if their juniors are selected. With the rejoinder the applicants have appended a copy of the order dated 13.9.90 by which eleven persons were promoted to the grade of Rs.700-900(Rs.2000-3200) all of whom are junior to the applicants.

8. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The main

question to be decided in these cases is whether even after giving retrospective promotion to higher grades, the respondents can deny to the applicants arrears of pay in the higher grades from the dates of retrospective promotion on the ground that they had not shouldered higher responsibility in those grades from the dates of their retrospective promotion. The fact, however, remains that the applicants did not shoulder higher responsibilities not because they were incompetent or unwilling to do so, but were not called upon to shoulder higher responsibilities. In J.S.Arora vs. Union of India and others, 1983(3) SLR 589, the Delhi High Court dealt with this matter as follows:-

" The Fundamental Rules which deny the salary of a post in which a person has not actually worked assumes that the non-working was for a lawful reason. But where a person is illegally deprived of an opportunity to perform duty of a post, as in the present case, (a promotional post) he is entitled to the full salary and allowances. This is in the nature of damages for illegal deprivation and loss. The present case is one of illegal deprivation of the promotional post."

In Alappat Narayana Menon vs. State of Kerala , 1977(2)SLR 656 a Division Bench of the Kerala High Court very lucidly dealt with such a situation and allowed arrears of pay with the following observations:-

"A Government servant cannot be said to have forfeited his claim for arrears of salary when he did not get his due promotion for no fault of his. The Government's plea that the petitioner was given only a notional promotion is not sustainable in law. What the petitioner got was not a promotion and it is wrong to call this promotion as 'notional' in the context of the peculiar facts and circumstances of this case. The concept of notional promotion cannot enter the realm of discussion in this case. Notional promotion is one which a Government servant gets under particular exigencies of situation, which he claim as of right. Here the petitioner is entitled as of right to get his promotion from 1.4.1955 and therefore his claim for arrears of salary and other material benefit cannot be denied to him on the plea that what was given

to him was only a notional promotion and the policy of the Government is not to give the arrears of salary in such cases."

On a similar case a Division Bench of the Kerala High Court presided over by the Acting Chief Justice in Rajappan Nair vs. State of Kerala and others, 1983(3) SLR 398, allowed arrears of salary with retrospective effect with the following observations:-

"It quite often happens that a Govt. Servant does not get his due promotion on the date he ought to have got it, but later it is given to him with retrospective effect from an earlier date. If for no fault of his, promotion to a Government servant is delayed and it is given to him later with retrospective effect from the date on which it was due, the Government servant is naturally entitled to restoration of the benefits which he has lost not on account of his conduct or laches. It is only proper that the Government should restore to him all that is lost by way of salary and other emoluments. This is a principle stated by our learned brother Khalid J., in Narayana Menon v. State of Kerala, 1978 K.L.T.29, a principle concerning which we could not see how any exception could be taken. Since the question has been elaborately considered by our learned brother with which we are in respectful agreement we do not think we should go into this any further."

In Hindustan Tin Works Pvt. Ltd., v. Its Employees, AIR 1979 SC 75, the Supreme Court held in a case of termination of service that if the workmen were always ready to work but they were kept away therefrom on account of invalid act of the employer, there is no justification for not awarding the full back wages which were very legitimately due to them. In K.K.Jaggia vs. State of Haryana and another,

1972 S.L.R 578 the Punjab and Haryana High Court held that if the petitioner was unable to perform his duties on higher posts as he was illegally not promoted to those posts at the time his promotion was due, he cannot be denied arrears of pay on the ground that he had not worked against those posts. It further held that by giving increments to the petitioner in the higher posts on the basis of his promotion the Government was accepting that he had spent this period as on duty in the time scale of that post. The legal fiction would, therefore, had to be extended to its logical conclusion that the petitioner should have deemed to have worked against those posts from the dates he was due to his promotions.

9. Since in the cases before us also the respondents have taken into account the dates of notional promotion to the higher grades for the purposes of giving them increments in those grades from the dates of actual promotion, they cannot deny to the applicants the arrears of pay also.

10. In a similar case of Charan Das vs. State of Punjab, 1980(3) SLR 702, it was held that once an employee is promoted with retrospective effect, he cannot be deprived of the pay and other benefits to which he would be entitled if he had been actually promoted on that date. The Government cannot take advantage of its wrong or illegal order in not promoting him and then while conceding the claim of the employee for promotion with retrospective effect, it cannot withhold what is due to the said employee on account of such promotion in the matter of pay and allowances. The Punjab and Haryana High Court

relying upon the ruling in Charan Dass case , referred to above, held in Mrs. Asha Rani Lamba vs. State of Haryana and another, 1983(1)SLR 400 that the petitioner therein who was promoted with retrospective effect with the rider that she would not get arrears of pay for the period she had not actually worked as Head Mistress, was illegal and directed payment of arrears of pay. In Amar Singh vs. Union of India etc, (1989) 10 ATC 312, the Principal Bench of the Tribunal in its judgment dated February 16, 1987, to which one of us was a party, observed as follows:-

"5. The other contention of the respondents that since the petitioner did not discharge the work of Assistant or Assistant Superintendent/S.O. he cannot be paid the arrears of salary for the retrospective period can be easily dismissed in view of the umpteen rulings given by the various High Courts and the Supreme Court to the effect that promotion with retrospective effect entitled the Government servant to arrears of salary. The view taken by various Courts has been that if the Government issued the order of promotion long after the promotion had actually become due and the Government was preventing the employee from discharging the duties of the promoted post for no fault of his, the employee cannot be denied the arrears of pay and that Government cannot take advantage of their error or delay or illegal order in not promoting the officer in time, by not paying the arrears. This view was held in Charan Dass Chadha v. State of Punjab; (1980)3 SLR 702(P & H), Shri K.K. Jagia v. State of Haryana; 1972 SLR 578 (P & H), Mrs. Asha Rani v. State of Haryana; (1983) 1 SLR 400, P.P.S. Gumber v. Union of India; (1984)2 SLJ 631, J.S. Arora v. Union of India; (1983)3 SLR 589(Del), and State of Mysore v. C.R. Sheshadri; (1974)4 SCC 308; 1974 SCC (L&S)264; AIR 1974 SC 460. "

11. In view of the unequivocal and consistent rulings of the Supreme Court , High Courts and this Tribunal, we hold that the applicants on their retrospective notional promotions to the higher grades of Rs. 425-640 with effect from 29.6.76, Rs.550-750 with effect from 26.11.76 and Rs.700-900 with effect from 1.8.79 cannot be denied the arrears of pay in those grades calculated from the respective dates

of promotion and that the following provision in the Railway Board's letter No.E(NG)63 PMI/92 dated 15/17 September, 1964 is not legally sustainable.

"No arrears on this account shall be payable, as he did not actually shoulder the duties and responsibilities of the higher posts."

12. The other point to be decided in these cases is whether the applicants can be denied arrears or retrospective promotion merely on the ground that they had retired though subsequent to the date on which the promotion became due. We have no hesitation in holding that the mere fact of superannuation or retirement or even death, cannot be held out for denying them their legitimate rights. This will be also discriminatory and violative of Articles 14 and 16 of the Constitution, if between two persons equally entitled to retrospective promotion from a particular date, one is promoted retrospectively while the other is denied retrospective promotion, merely because in the meantime he had retired on superannuation. In *Maharaja Sayajirao University of Baroda & others vs. R.S.Thakkar*, 1(1988)ATLT (SC)267, the Supreme Court upheld the order of High Court of Gujarat granting back wages to the respondents who had retired during the pendency of the litigation. In *State of Mysore vs. C.R. Sheshadri*, 1974(1)SLR 407 it was held that where the official seeking relief retired during the pendency of appeal by State before the Supreme Court, the respondents ^{have to} ~~to~~ consider the claims of the official for notional promotion from his due date and to make

payment of what was due to him. In another case of a retired Government servant who had been compulsorily retired in 1977 and was to superannuate on 30.6.82 in Rai Singh vs. Union of India, (1989) 11 ATC 374, the Division Bench of the Tribunal presided over by Mr. Justice Amitav Banerji, Hon'ble Chairman, directed retrospective promotion and consequential benefits with effect from 12.8.77. Accordingly we find no justifiable ground whatsoever in denying retrospective promotion to the scale of Rs.700-900(Rs.2000-3200) to some of the applicants before us with effect from 1.8.79 merely on the ground that they had since retired though long after 1.8.79, while at the same time giving them notional promotion to the other two higher grades of Rs.425-640 and Rs.550-750 from 1976. In any case the matter seems to have been clinched by the judgment of the Madras Bench of the Tribunal in O.A 466 etc. of 1987^{copied} at Annexure A5 in OA 254/90. Even though the applicants in those cases had not been selected to the higher grades, the Tribunal directed that the pay of the applicants entitled to be promoted with effect from 1.8.79 to the scale of Rs.700-900, also should be fixed with effect from 1.8.79 and consequential arrears and revision of pensionary benefits allowed to them. The claims of the applicants before us are even better than those appearing before the Madras Bench inasmuch as while the latter were considered but not promoted to the grade of Rs.700-900, the applicants before us were never considered and left out for promotion to the grade of Rs.700-900. Though some of the applicants were given adhoc promotion to Rs.700-900 before retirement, the promotion was from a later date and not from 1.8.79. The

respondents themselves in the counter affidavit indicated that the applicants will be considered for notional promotion to the grade of Rs.700-900 if their juniors are later promoted to that grade. Since the applicants have produced the order dated 13.9.90 (Annexure A8 in OA 254/90) promoting their juniors to that grade, the respondents are now bound ^{on their own assurance} to consider the applicants also for promotion with effect from 1.8.79 despite the fact that they have retired. The plea of their retirement for denying them retrospective promotion therefore cannot be sustained by the respondents own assurance as indicated above.

13. Even though a direction to the respondents to consider the applicants for retrospective promotion to the grade of Rs.700-900 (Rs.2000-3200) would have sufficed, keeping in view the fact that the Madras Bench of the Tribunal had directed retrospective promotion even to those who had been considered and not promoted to that grade, it will not be fair to the applicants before us who had never been considered for such promotion if a similar direction of promoting them with effect from 1.8.79 is not given in their cases also. It will be also impractical at this stage to subject the applicants, who have already retired, to a selection process for promotion to the grade of Rs.700-900 with effect from 1.8.79.

14. In the conspectus of facts and circumstances and the law as discussed above, we allow the four applications with the following

directions:-

- a) The following provisions in the Railway Board's circular dated 15/17.9.1964 are set aside:-
- "No arrears on this account shall be payable, as he did not actually shoulder the duties and responsibilities of the higher posts."
- b) The applicants should be promoted to the grade of Rs. 700-900(Rs.2000-3200) with effect from 1.8.79 with all consequential benefits of arrears of pay and revision of pension.
- c) The applicants are entitled to arrears of pay on the basis of their retrospective promotion to the scale of Rs.425-640 with effect from 29.6.76, to the scale of Rs.550-750 with effect from 26.11.76 as also to the scale of Rs. 700-900 with effect from 1.8.79 if they had not superannuated before any of these dates.
- d) Arrears of pay, allowances and pensionary benefits should be determined, sanctioned and disbursed within a period of six months from the date of communication of this order.
- e) There will be no order as to costs.

A.V. Haridasan
28.6.91
(A.V. Haridasan)
Judicial Member

S.P. Mukerji
28.6.91
(S.P. Mukerji)
Vice Chairman

CCP 49/92.
OA 487/90

17.6.92

Mr. P. Sivan Pillai
Mr. Ramakrishnan for Smt. Dandapani.

The learned Counsel for the original respondents undertakes to file reply to the CCP within two weeks with copy to the learned Counsel for the petitioner.

List for further directions on 9.7.92

Avit
17.6

Sdm
17.6

SPM & AVH

Mr. P Sivan Pillai for applicant
Smt. Sumathi Dandapani for respondents

The learned counsel for the respondents indicated that in compliance of our order arrears of pay and allowances have already been paid to the petitioner. It is admitted by the learned counsel for the original applicant. The learned counsel for the respondents, however, states that because of the formalities to be completed payment of pension and pension arrears was not done. The sanction of revised pension and arrears ^{will} be issued and paid to the petitioner within a period of 2 months from today. On the basis of the assurance we direct that the CCP be listed before us for final disposal on 14.9.92. Order by hand to both the parties.

(AV HARIDASAN)
JUDICIAL MEMBER

(SP MUKERJI)
VICE CHAIRMAN

9.7.1992.

Ref order dt. 9.7.92
The CCP was not listed on 14.9.92 but adjourned to 7.10.92 by order along with other DB matters as there was no DB sitting on 14/9. As it has been ordered to list before us it is for order whether the case is to be adjourned again since the Benchable is wanted to be available for sitting on 7/10.
Submitted for orders
pvc
30/9.

DR(J)

order issued on 13/7/92

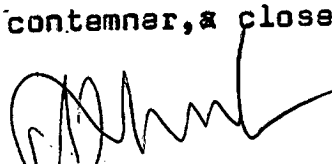
Adjourned by order on 17/9/92
Reply statement filed on 18/9/92

7-10-92
(6)

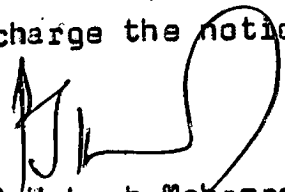
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Mr Sivan Pillai
Mrs Dandapani

The alleged contemner has filed an affidavit on ~~8.7.92~~ ⁴⁻⁹⁻⁹² enclosing a copy of the order by which the directions contained in the original order was fully complied with. He has also expressed regret for the late implementation and has stated that the delay was not wilful. Since the directions have been fully complied with, we accept the averments made in the affidavit by the alleged contemner, & close the CCP and discharge the notice.


(A.V. Haridasan)
J.M.

7-10-92


(P.S. Habeeb Mohamed)
A.M.

F.O.
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