

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA NO.542/2006

Wednesday this the 24<sup>th</sup> day of January, 2007.

CORAM:HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

R.Raghavan,  
Kumari Mandiram,  
Eroor P.O.,(via)  
Anchal, Kollam.

... Applicant

By Advocate Ms.Shanti for Mr.S.M.Prem.

V/s.

1. Union of India,  
represented by Secretary to Government,  
Department of Communication, New Delhi.
2. Chief Postmaster General,  
Kerala Circle,  
Thiruvananthapuram-695 033.
3. The Post Master General,  
P.M.G.Office,  
Thiruvananthapuram.
4. Senior Superintendent of Posts,  
Kollam Division, Kollam. ... Respondents

By Advocate Mrs.Mariam Mathai ACGSC

The application having been heard on 24.1.2007 the Tribunal delivered the following:

Hon'ble Dr.K.B.S.Rajan, Judicial Member

(ORDER)

The applicant Shri R.Raghavan is father of Shri R.Sunil who  
was employed in the Postal Department as Postal Assistant in 1983. The

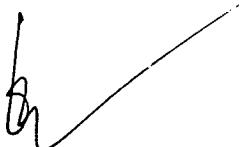


said Shri Sunil was found missing from 18/12/1993 and he did not attend office thereafter. Efforts were made to locate the said Shri Sunil even by the department by deputing an inspector for spot verification. The inspector had given the following report:-

"As directed I made inquiries into the case of unauthorised absence of Shri R.Sunil LPPA, TV, GPO on 2/1/1995, at Yeroor, the home town of the Government Servant. I met the younger brother as also the mother of the Government servant. The Government servant's mother is a retired High School Teacher. The brother of the Government servant is running a saw mill in the locality. The father of the Government servant was not available at his house at the time of my visit. The mother and the younger brother of the Government servant told me that Shri Sunil had been under treatment for mental disorder for quite some time past. As narrated by the mother of the Government servant, on 17/12/1993 night, the Government servant expressed his desire to have pilgrimage to all important temples viz. Mookambika, Dharmastala, Palani etc. Around 5.00 a.m. on 18/12/93, he left his residence telling his mother that he was going to Trivandrum for some office purpose contrary to his original plan unmindful of the resistance from his parents and brother. Thus he is absconding from 18/12/1993 onwards. They have made all efforts leaving no stone unturned, to locate his whereabouts, by visiting all important pilgrim centres but all proved to be futile. In the midst of their efforts, they have also reported the case to Yeroor Police Station and have also published his photo in the Kerala Kaumudi daily dated 2/3/1994. A copy of the newspaper obtained from them is enclosed for ready reference. They have also telecast the photo of the Government servant on the TV during the month of March, 1994.

They further hinted that the Government servant had met with an accident in 1985 and the MACT, Quilon had awarded a sum of Rs.65,000/- towards compensation. And this amount remains unpaid because of the missing of the Government servant.

I called on the S.I. Of Police Yeroor. He told me that a case of man missing had been reported to the Police by the relatives of Shri Sunil on 22/12/1993. He showed me the register maintained for the purpose. As per the register, Mr.Sunil is missing from 18/12/1993 at 05.00 hrs, and the case has been reported to the Police on 22/12/1993 at 10.00 hrs. The Police have booked the case under No.134/1993. They

A handwritten signature in black ink, appearing to read 'S. I. Of Police Yeroor'.

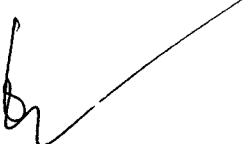
have treated the case as U.N. Though the case has been charged under U.N. it is still alive, according to the Police. The Police have however, submitted a U.N. Report to the JFMC, Punohir. The Yeroor Police station is under the administrative jurisdiction of Anchal C-1 and under S.P.Qulon.

In this case, I would suggest that we may take further action in the matter on securing a copy of the U.N. report from the JFMC Punahir."

Notwithstanding the Inspector's report, to complete the formality the respondents had initiated disciplinary proceedings under Rule 14 of CCS CCA Rules which culminated in the penalty order of removal from service vide order dated 20/10/1997.

The applicant having waited for seven years ultimately approached the respondents vide annexure A-3 letter dated 6/11/2002 requesting them to take steps to disburse Provident Fund accumulation, , Gratuity to which Shri Sunil was entitled to and pass appropriate orders. This was followed by reminder dated 17/3/2003 (Annexure A-6). Finding no joy, the applicant moved OA No.798/2005 which was disposed of by Annexure A-7 order dated 24/11/2005 whereby respondents were directed to consider Annexure A-6 representation or any other comprehensive representation that may be filed by the applicant and pass a speaking order. In pursuance of the above order, the applicant moved a representation dated 3/12/2005 which was considered by the respondents and rejected vide Annexure A-9 order dated 17/3/2006. It is against the above rejection order, the applicant has come up with this OA.

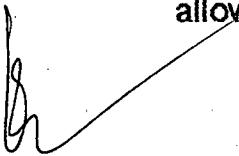
Respondents have resisted the OA on the ground that Shri Sunil having been removed from service by disciplinary proceedings, the



applicant is not entitled to any terminal benefits, etc and Provident Fund accumulation and pay and allowances outstanding alone would be payable. The reply read with additional reply refers.

When the case was heard, for adjudicating this case, the original records were called for and the same having been produced, complete perusal was made. It is through the records only that the Inspection conducted by the respondents could be found (as extracted above). This Inspection Report is comprehensive. It is also found that when the proceedings were initiated and conducted, all the communications addressed to Shri R.Sunil returned undelivered. Thus no communication could be treated as service or deemed service. Taking into account the details of the Inspection report and the fact that none of the communications could be served upon Shri R.Sunil, the order of removal dated 20/10/1997 cannot be sustained in which event the applicant's son Shri R.Sunil is deemed to have died after seven years of his missing. The consequences thereof should therefore follow which makes the applicant entitled to the terminal benefits in respect of his missing son and the same includes DCRG, Provident Fund, leave encashment if any and outstanding pay and allowances.

In view of the above, the OA is allowed. Order dated 17/3/2006 is quashed and set aside. It is declared that the applicant is entitled to DCRG, leave encashment if any, Provident Fund accumulation in the name of Shri R.Sunil and the outstanding amount of pay and allowances as reflected by respondents. Since the applicant's spouse is



an earning member, no Family Pension is admissible. The respondents are directed to work out the amount due to the applicant and disburse necessary payment (with details of calculation) within a period of two month from the date of communication of this order.

Any Indemnity Bond, if provided for in the rules, for making above payment, shall be furnished by the applicant if demanded by the respondents.



Dr.K.B.S.Rajan  
Judicial Member

abp