

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 554 of 2002

Monday, this the 2nd day of August, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. T.V. Kurian,
S/o T.J. Varkey (Late),
residing at TC 8/1812, Udayagiri Nagar,
Thirumala, Thiruvananthapuram
[Retired Engineer (SF),
Civil Engineering Division,
Department of Space, ISRO,
Thiruvananthapuram].Applicant

[By Advocate Shri M.R. Hariraj]

Versus

1. Union of India, represented by the
Secretary, Ministry of Space,
Civil Engineering Division, New Delhi.

2. The Chief Construction Engineer,
CED/DOS, Civil Engineering Division,
Department of Space, Thumba.

3. Nagpur Municipal Corporation represented by
The Municipal Commissioner/Development
Engineer, Mahanagarapalika Road,
Nagpur, Maharashtra.

4. The Director,
Directorate of Municipal Administration,
New Administrative Building-32,
Manthralaya, Mumbai, Maharashtra State.Respondents

[By Advocate Shri C.N. Radhakrishnan (R1 & R2)]

The application having been heard on 2-8-2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant joined the Nagpur Municipal Corporation (PWD) as an Overseer in the scale of pay of Rs.170-400 on 4-3-1966. He applied for the post of Supervisor Civil (Tech Asst C) in the Department of Space through proper channel on 2-5-1973. He having been selected was relieved from the

services of the Nagpur Municipal Corporation for joining the Department of Space. The applicant submitted a representation on 6-11-1999 (Annexure A1) to the 2nd respondent requesting that the services rendered by him in Nagpur Municipal Corporation be counted for his pensionary benefits. Pursuant to the above representation and on the basis of the letter dated 16-3-2001 of the 3rd respondent, the 2nd respondent forwarded the service details of the applicant to the 3rd respondent. The 3rd respondent, in reply to the said letter, sent Annexure A3 letter stating that the services rendered by the applicant under the 3rd respondent did qualify for pension. Again the 2nd respondent called for certain clarifications vide Annexure A5 on the following points:-

- "01. Whether the Nagpur Municipal Corporation is an Autonomous Body under the Maharashtra State Government or an organization directly under the State Government and pension liability of Nagpur Corporation employees are borne either by the corporation itself or from the state revenue.
02. Whether the Nagpur Corporation will bear the proportionate pension liability of Shri T.V. Kurian.
03. Any documents which can be considered as supporting documents for qualification of his service for pension may be made available if traceable."

2. In Annexure A6 letter, the clarification was given. However, it was stated that the Nagpur Municipal Corporation would not bear the pension liability. The 2nd respondent wrote to the 3rd respondent on 12/13-11-2001 (Annexure A4) stating that it was the liability of the Nagpur Municipal Corporation to make the pro-rata pension contribution. Since the pro rata pension contribution was not made by the 3rd respondent, the claim of the applicant for counting the services under the Nagpur Municipal Corporation, viz. the 3rd respondent, had not

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been taken for fixation of the terminal benefits of the applicant. Therefore, the applicant has filed this application seeking the following reliefs:-

- i. To declare that the service rendered by the applicant between 4.3.1966 and 2.5.1973 in Nagpur Municipal Corporation is liable to be counted for pensionary benefits in the Department of Space;
- ii. To direct the 3rd respondent to discharge pro rata pension liability due to the applicant to the 2nd respondent for the service rendered by him between 4.3.1966 and 2.5.1973;
- iii. To direct the 2nd respondent to revise the pension of the applicant after counting the service rendered by him in Nagpur Municipal Corporation with all consequential benefits;
- iv. To direct the 3rd respondent to pay 18% interest, after revision of the pension, on the differential amount of pension from the date of retirement of the applicant; and
- v. Grant the costs of this Original Application.

3. Respondents 1 and 2 in their reply statement support the case of the applicant that the service rendered by the applicant in Nagpur Municipal Corporation is to be counted for reckoning the qualifying service for pension, but express inability to do so because the Nagpur Municipal Corporation, inspite of their best efforts, have not made the pro rata pension contribution.

4. The 3rd respondent, viz. Nagpur Municipal Corporation, has sent a reply statement in which, while admitting that it is the duty of the Nagpur Municipal Corporation to make the pro rata pension contribution, it is stated that it has not been done because of want of proper demand from the Department of Space. However, the Nagpur Municipal Corporation has also raised a plea of want of jurisdiction for the Tribunal to entertain this application against them.

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5. We have gone through the pleadings and materials placed on record and have heard Shri M.R.Hariraj, learned counsel of the applicant and Shri C.N.Radhakrishnan, learned counsel for respondents 1 and 2, but did not have the privilege of hearing a representative of Nagpur Municipal Corporation or its counsel as the Corporation has only sent a reply, but has not entered appearance.

6. On a careful consideration of the issue of jurisdiction, we find that the issue involved in this case is the service condition of an employee of a Department under the Government of India regarding counting of services rendered in an autonomous body covered by the rules and instructions issued by the Government of India. We, therefore, find no merit in the contention that this Tribunal does not have jurisdiction to entertain this application.

7. Regarding the entitlement of the applicant for having the period of services rendered in Nagpur Municipal Corporation for reckoning the qualifying service for pension, there is no dispute from any quarter. The Nagpur Municipal Corporation in its reply statement at one place has admitted that the service of the applicant under the Corporation was pensionable service and that it is the liability of the Corporation to bear the pro rata pension contribution, although they have also stated that they would not bear it. They have further stated that there is no proper demand for pro rata pension contribution from the Department of Space. From the materials on record, it is evident that the Department of Space has written several letters requesting that the pro rata contribution be made, but it is not seen that specific demand quantifying the contribution has been made. Under these circumstances, in the interest of justice, we consider that it would be appropriate

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if the respondents 1 and 2 are directed to quantify the pro rata contribution to be made by the 3rd respondent and make a demand and direct the 3rd respondent to make the contribution so determined within a time frame and further direct the respondents 1 and 2 to recompute the pensionary benefits of the applicant and make available to him the benefits within a time frame.

8. In the light of what is stated above, we dispose of the Original Application with the following directions:-

- (a) Respondents 1 and 2 shall determine the pro rata pension contribution to be made by the 3rd respondent for the services rendered by the applicant under it and make a specific demand to the 3rd respondent within a period of six weeks from the date of receipt of a copy of this order;
- (b) The 3rd respondent shall, on receipt of the intimation regarding the quantum of pro rata pension contribution, pay to the 2nd respondent the contribution so determined within a period of two months from the date of receipt of the demand; and
- (c) Respondents 1 and 2 shall, on receipt of the pro rata pension contribution from the 3rd respondent, revise, recompute and make available to the applicant revised pension and other pensionary benefits with arrears within a period of two months thereafter.

9. There is no order as to costs.

Monday, this the 2nd day of August, 2004

H.P. Das
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ADMINISTRATIVE MEMBER

A.V. Haridasan
A.V. HARIDASAN
VICE CHAIRMAN

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