

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 577/99

THURSDAY, THIS THE 21st DAY OF FEBRUARY, 2002.

C O R A M

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

P.D. Vasudevan Unni
Pournami
C.M.C. XI/203,
Cherthala P.O.-688 524

Applicant

By Advocate M/s Sukumaran & Usha

Vs

1. Union of India represented by the
Secretary to Government
Ministry of Personnel, Public Grievances & Pension
Department of Pension & Pensioners' Welfare
3rd Floor, Lok Nayak Bhavan
Khan Market
New Delhi.
2. Accountant General of Kerala
Office of the Accountant General
Trivandrum
3. State of Kerala represented by
the Secretary to Government
General Education Department
Trivandrum
4. The Administrator/Collector
Union Territory of Lakshadweep
Kavaratti.

Respondents

By Advocate Mr. C. Rajendran SCGSC for R-1,2 & 4
By Advocate Mr. Ranjit A, GP for r-3

The Application having been heard on 31.1.2002 the Tribunal
delivered the following on 21.2.2002.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This Original Application has been filed by the
applicant aggrieved by A-8 order dated 21.10.97 issued by the
second respondent rejecting his request for reckoning of his
aided school service along with Central Government service as
qualifying service. He sought the following reliefs through
this Original Application:



(a) to issue a direction to the respondents to reckon the Aided School service rendered by the applicant from 22.9.1953 to 1.6.1964 in Erumakuzhi U.P. School, Nooranad under the 3rd respondent-Govt. of Kerala, for the purpose of counting the pension due to the applicant.

(b) to declare that the applicants service of 10 years 8 months and 9 days in the Aided School under the Govt. of Kerala is liable to be counted while determining the pensionary benefits due to the applicant.

(c) to set aside Annexure A-8 letter issued by the second respondent rejecting the applicant's claim for counting his Aided School service for the purpose of pension since the same is issued in clear violation of the provisions of Rule 14 of the Central Civil Services (Pension) Rules, 1972.

(d) to direct the 2nd and 3rd respondents to sanction and disburse the full pension due to the applicant with 18% interest from the date of retirement ie. 31.6.1989 till date of payment counting his aided school service for the period from 22.9.1953 to 1.6.1964 in the Erumakuzhi U.P. School, Nooranad.

(e) to direct the 2nd respondent to issue an order refixing the pension of the applicant counting his aided school service from 22.9.1953 to 1.6.1964.

2. According to the averments of the applicant in the Original Application he entered service on 29.5.53 as a Upper Primary School Assistant in Erumakuzhy Upper Primary School, Nooranad in Mavelikkara Education District, Alappuzha -an Aided School. While thus working, in June, 1964 he got appointment to the post of Primary Teacher under the Lakshadweep Administration. He claimed that immediately on receipt of the offer of appointment from the 4th respondent he got relieved from the Erumakuzhy U.P. School, Nooranad on 1.6.1964 but he could join the school under the 4th respondent only on 17.5.1965 due to health reasons for which he had to take 11 months and 16 days time to join the school under the 4th respondent. After completing 24 years of service under the 4th respondent he took voluntary retirement on 31.6.1989. According to him he put in a total service of more than 34 years under the State Government and the U.T. Administration. The first respondent issued letter No. 3(20)Pen(A) dated 31.3.1982 allowing Government servants the



benefit of counting their qualifying service both under the Central Government and State Government for grant of pension by the Government from where they retire. On the basis of the above letter, on 11.4.84 the applicant made a representation before the 3rd respondent claiming the above benefit. Since no reply was received for the same on 20.6.88 he again filed a representation before the 3rd respondent. Thereafter by A-1 G.O. (Rt) No. 3358/88/G.Edn. dated 16.9.88 the third respondent made it clear that the State Government have no objection in reckoning the service rendered by him for pensionary benefits. According to the applicant though it was stated in A-1 order that the sanction was ordered without causing any financial commitment to the State Government, under the orders issued by the Central Government on the subject, the Govt. employee need not deposit the pensionary contribution due from the State Govt. to the Central Government. The above fact was made known to the applicant by the third respondent in response to A-3 letter dated 8.11.88 given by the applicant to the third respondent requesting to inform him the contribution to be paid by the State Government. According to the applicant in the above letter second respondent made it clear that when aided school service rendered in the State was running along with the service in the Central Govt. the question of sharing any liability did not arise since the applicant had already retired after 1.4.87. The applicant claimed that he was entitled to count his more than 10 years of service rendered in aided school for pensionary benefits. According to him repeated representations filed before the second and third respondents remained unheeded till March, 1994. He further submitted that on coming to know that aided school service of similarly situated persons like the applicant were counted for the purpose of disbursing their pension by the



second respondent, he filed another representation dated 11.3.94 (Annexure A-4) bringing to the notice of the second respondent the above instances and requesting to reckon his aided school service also for pensionary benefits. The said representation was rejected by the second respondent by A-5 order dated 15.4.94. Along with A-4 representation applicant enclosed the medical certificate dated 10.3.94 issued by Dr. P. Mahadeve Iyer, Retd. Senior Medical Officer (Annexure A-6) under whom the applicant was under treatment for spinal disease for the period from 25.5.64 to 16.5.65. According to the applicant in the case of four other primary school teachers who retired after the retirement of the applicant namely S/Shri V.C. Kumaran, V.C. Narayanankutty, N. Balakrishnan Nair and G. Padmini Amma their aided school service were counted and full pensionary benefits were given to them. Therefore, the applicant again approached respondents 1;2 and 4 by A-7 representation dated 27.8.99 for which he received A-8 reply dated 21.10.97 issued by the second respondent. Applicant averred that first respondent by a communication dated 3.10.97 directed the fourth respondent to redress the grievance of the applicant and to send a suitable reply. It was also averred that the first respondent also stated that State pensions were the concern of the respective State Governments and also advised the applicant to address all future correspondence to the State directly. In A-8 letter dated 21.10.97 the second respondent informed that the aided school service could not be reckoned as qualifying service unless the break of nearly one year was condoned by special orders of Government of India. The applicant claimed that the reason given by the second respondent in A-5 to the effect that there was a break of more than one year between the service in the aided school and the service in the Govt. primary school was not correct.



In A-4 representation he informed the second respondent the reasons as to why he could not join the service under the 4th respondent immediately. As he was relived from the aided school on 31.5.64 and he joined duty in the Govt. Primary school on 17.5.65. Thus, the break was only of 11 months and 7 days and it occurred due to illness. He claimed that A-5 and A-8 had been issued with total non-application of mind. A-8 letter was also untenable and opposed to the CCS Pension Rules 1972. He claimed that the service rendered by the applicant would come within the ambit of service as defined under Rule 14(2) of the CCS (Pension) Rules and as per as per Rule 14(3) of the Civil Service Pension Rules and Government of India decision No. 3 under Rule 14 of CCS (Pension) Rules. The reasons given by the second respondent rejecting his request for counting the aided school service as qualifying service for the purpose of pension was illegal and untenable. As he has been denied full pension and the delay in the disbursement of the same would have the effect of violating his fundamental right under Article 21 of the Constitution and in the light of the dictum laid down by the Hon'ble Supreme Court he was entitled for 18% interest for delayed payment of pension. Hence the O.A. seeking the above reliefs.

3. A reply statement was filed by the second respondent resisting the claim of the applicant. According to him the applicant had not fulfilled the conditions laid down by the Government of India for reckoning the temporary service under the State Govt. as qualifying service for pension and the O.A. was to be dismissed. According to him the applicant had not made out any ground for sustaining the reliefs sought for by him in the O.A.



4. A further reply statement was filed by respondents 1, 2 & 4. Relying on the Govt. of India Department of Personnel & Administrative Reforms letter No. 3(20)Pen.A/79 dated 31.3.82 and Department of Personnel and Administrative Reforms OM No. 28/10/84-PU dated 29.8.84 read with letter No. 28/10//84-P&PW-Vol.II dated 7.2.86 it was submitted that there was no provision in the Central Govt. rules/orders to count service rendered in privately aided school/institution. They also relied on R-1(B) order dated 6.1.97 of Mumbai Bench of this Tribunal in O.A. No. 795/96 in G.A. Waghalikar Vs. Union of India dated 6.1.97. According to them the applicant's case was devoid of any merits and should be dismissed with costs.

5. Applicant filed rejoinder.

6. The third respondent filed a separate reply statement resisting the claim of the applicant. According to him the averment in the original application to the effect that the applicant had been relieved from the aided school service on 31.5.64 was not correct. The Headmaster of the aforesaid school had reported that the applicant had resigned the job with effect from 1.4.64 and hence he did not come under any of the provisions of the order as he had resigned from the aided school. It was submitted that in the absence of any rule/govt. order the second respondent had not acceded to the proposal for counting the service rendered in the aided school.

7. Heard learned counsel for the parties. The learned counsel for the applicant relied on A1, A2 and A5 in support of the applicant's case of having rendered service in the aided school and to submit that such aided school service was



State Govt. service. He also submitted that as in A1 the State Govt. had agreed for counting the aided school service and hence it should be treated ~~xxxx~~ as State Govt. service. He also drew our attention to Rule 14(2) and (3) of the CCS Pension Rules, Govt. of India decisions 3 and 6 and Kerala Service Rules Section 3 of Rule 29. The learned counsel for the third respondent referred to A-6 and submitted that the said certificate was issued for the period pertaining to 25.5.64 to 16.5.65 but was issued on 10.3.94. The learned counsel for respondents 1, 2 & 4 relied on R-1A OM dated 7.2.86 and R-1B order of this Tribunal (Mumbai Bench) in O.A. 795/96 dated 6.1.97.

8. We have given careful consideration to the submissions made by the learned counsel for the parties, the pleadings and the documents brought on record.

9. The applicant relied on Rule 14 of the CCS Pension Rules to submit that the reasons shown in A-8 were totally untenable. Rule 14 of the ~~xx~~ CCS Pension Rules reads as under:

14. Conditions subject to which service qualifies

(1) The service of a Government servant shall not qualify unless his duties and pay are regulated by the Government, or under conditions determined by the Government.

(2) For the purpose of sub rule (1) the expression "Service" means service under the Government and paid by that Government from the Consolidation Fund of India or a Local fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by that Government.

(3) In the case of a Government servant belonging to a State Government, who is permanently transferred to a service or post to which these rules apply, the continuous service rendered under the state Government in an officiating or temporary capacity if any, followed without interruption by substantive



appointment, or the continuous service rendered under that Government in an officiating or temporary capacity, as the case may be, shall qualify.

Provided that nothing contained in this sub-rule shall apply to any such Government servant who is appointed otherwise than by deputation to a service or post to which these rules apply.

The applicant prima facie cannot be treated as State Government employee during the period from 1953 to 1964 as he was, on his own admission working in an aided school. Applicant is relying on A-1 State Government's order to contend that his aided school service is State Govt. service. The said A-1 letter reads as under:

GOVERNMENT OF KERALA
Abstract

General Education-Primary-Shri P.D. Vasudevan Unni
Primary Teacher, Government High School Kavaratti
Reckoning of aided school service for pensionary
benefits-orders issued.

GENERAL EDUCATION (H) DEPARTMENT
G.O.(Rt)NO.3358/88/G.Edn.-Dated Trivandrum 16.9.88

- Read-
1. Letter No. 3(20)/Pen(A)79 dated 31.3.82 of the Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, New Delhi.
 2. Letter No. F.18-17-82/edn. dated 22.8.83 of the Director of Education, administration of the Union Territory of Lakshadweep, Kavaratti.
 3. Govt. letter No. 11927/A1/82/G. Edn. dated 17.8.83
 4. Representation dated 17.4.84 from Sri P.D. Vasudevan Unni, Primary School Teacher, Government High School, Kavaratti.
 5. Letter Ni.-E2-73997/85 dated 15.6.87 of the Director of Public Instruction.
 6. Letter No. ET2/82255/87/DPI dated 19.1.88 of the Director of Public Instruction.

O R D E R

Orders have been issued by the Government of India in the letter read as 1st paper above, allowing Government servants the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of Pension by the Government from where they eventually retire on



condition that the proportionate pensionary liability in respect of qualifying service rendered under the Central Government and the State Government are shared by the Governments concerned on a service-share basis and also subject to the other conditions mentioned thereon.

In the reference read as 2nd paper above, the Director of Education, administration of the Union Territory of Lakshadweep has taken up the question of counting the services of few teachers working there for the purpose of pension and payment of leave salary contribution in respect of such teachers by the State Government. After detailed examination, Government have rejected the proposal of the Director of Education (vide reference read as 3rd paper above) as the appointment of such teachers under the Lakshadweep Administration were not on deputation basis and as the teachers deserted their job in aided schools in the state and took up the employment in the Union Territory on their own accord.

In the references read as 4th paper above Sri P.D. Vasudevan Unni, one of the teachers has requested Government to reconsider the Government decision in this regard. He has also expressed his willingness to remit the pension contribution share for the period of his service in the state without causing any financial commitment on the state Government. He has also stated in his petition that he does not want to get any other benefits from the State Government.

Government have examined the request of the petitioner in detail. As per the report of the Director of Public Instruction Sri Vasudevan Unni was a U.P. School Assistant in Erumakuzhy Middle School Nooranad for the period from 22.9.53 to 31.5.64. Since Sri Vasudevan Unni has agreed to remit the pension contribution himself for the period of his service under the State Government the State Government have no objection in reckoning the service rendered by him for pensionary benefits, subject to the specific condition that the stated will not meet any expenditure on leave salary, pensionary contribution etc. in this regard.

By Order of the Governor

S. Padmanabha Iyer
Deputy Secretary

To

The Director of Education
Administration of the Union Territory of
Lakshadweep, Kavaratti.

Sri P.D. Vasudevan Unni, Primary school
Teacher, Govt. High School, Kavaratti, Union
Territory of Lakshadweep.



Finance
6547/Edn/A3/88/fin

department-wide
dt.5.8.88

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No.

forwarded by order
Section Officer.

10. We find from the above order that State Government agreed to reckon the service rendered by him for pensionary benefits because the applicant agreed to remit the pension contribution himself for the period of his service in the aided school. The applicant is governed by the CCS (Pension) Rules. As per Rule 14 of the said Rules qualifying service is to be decided by the 'Government' and the term 'Government' is defined in Rule 3(1)(h)(i) as 'Central Government.' Nothing has been produced before us to show that Central Government has accepted the aided school service as State Government service and hence as qualifying service. Further, even if the aided school service is treated as State Government service as per Rule 14 of CCS (Pension) Rules, there should be no interruption between the State Government Service and Central Government Service. In this case, there is an interruption of 11 months and 7 days as admitted by the applicant himself. Moreover, we find from A-1 reproduced above that the applicant deserted his job on his own accord and took up employment under the Union Territory. When such is the case as per the proviso under Rule 14(3) of the CCS (Pension) Rules, the earlier service cannot be treated as qualifying service.

11. The applicant relied on para 2 & 3 of Government of India Decision NO. (3) in support of his pleas. The Government decision No. 3 reads as under:

(3) Counting of service rendered in Central Government autonomous bodies before their take-over by Central Government-



(1) A question has been raised whether the service rendered in the Central Government autonomous bodies prior to their being taken over by the Central Government and who later on joined the service under the Central Government with or without break, can be allowed to be counted towards pension under the Central Government rules. At present service rendered in the Central Government autonomous bodies which are taken over by the Central Government is allowed to be counted towards pension only in respect of those employees of the Central autonomous bodies who were in the service of those bodies at the time of their being taken over by the Central Government, subject to the condition that the retirement benefits if any, available to the employees in respect of the service rendered in the autonomous body are made over to the Central Government. The service rendered in the autonomous body in respect of those employees who were not in position at the time of the take over of the bodies by the Central Government is not allowed to be counted towards pension.

2. It had been represented that this is causing great hardship to the concerned employees who in some cases had considerable length of service in such bodies. This question has, therefore, been carefully considered and it has been decided that the service rendered in the Central autonomous bodies by the employees who left the service of those bodies any time prior to their take over by the Central Government, and who later on joined service under the Central Government, with or without break, will be allowed to be counted towards pension and/or gratuity to the extent admissible under the rules at the time such persons retire or retired from Government service, the period of break, if any, being condoned. This will however, be subject to the condition that the gratuity/employer's contribution received in respect of the service rendered in the autonomous bodies will be refunded to the Government with simple interest at the rate of six per cent per annum from the date of receipt to the date of refund.

3. It has also been decided that in relaxation of the relevant rules, the orders above will be applicable in the case of the following categories of the employees referred to above

(i) Those who are still in service of the Central Government

(ii) Those who have retired from service, but are still alive and are receiving pension on the basis of the service rendered under the Government of India only.

(iii) Those who have retired from service and are still alive, but did not receive any pension due to non-counting of the service rendered in the autonomous bodies prior to their joining the service under the Central Government.

(G.I.M.F.O.:M.No.F.3(15)-E.V (A)/76 dated the 3rd December, 1977 appearing in Page 32 and 33 of Swamy's Pension Compilation-15th Edition-2000))



We do not find any merit in the above plea. Nowhere in the O.A. there is any averment to the effect that the School in which the applicant was working viz. The Upper Primary School, Erumakuzhy was taken over by the Central Government.

12. Respondents are relying on Govt. of India OM dated 31.3.1982 and OM dated 29.8.84 to submit that the applicant is not entitled for counting the aided school service as qualifying service. The said OM dated 31.3.82 is appearing as GOI's decision (6) on Pages 35 and 36 of Swamy's Pension Compilation 15th Edition-2000. The said OM reads as under

(6) Counting of temporary service under the State/Central Governments-1.

1. The Government of India have been considering in consultation with the State Governments, the question of sharing on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the Central Government/State Governments prior to securing posts under the various State Governments/Central Government on their own volition in response to advertisements or circulars, including those by the State/Union Public Service Commissions and who are eventually confirmed in their new posts. It has since been decided in consultation with the State Governments that proportionate pensionary liability in respect of temporary service rendered under the Central Government and State Governments to the extent such service would have qualified for grant of pension under the rules of the respective Government, will be shared by the Governments concerned, on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. The gratuity, if any, received by the Government employee for temporary service under the Central or State Governments will however, have to be refunded by him to the Government concerned.

2. The Government servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories:-

(1) Those who having been retrenched from the service of Central/State Governments secured on their own employment under State/Central Governments either with or without interruption between the date of retrenchment and date of new appointment



(2) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments through proper channel with proper permission of the administrative authority concerned

(3) Those while holding temporary posts under Central/State Governments apply for posts under State/Central Governments direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointments under State/Central Governments.

The benefit may be allowed to the Government servants in Categories (1) and (2) above. Where an employee in Category (2) is required for administrative reasons, for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to join, with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his Service Book under proper attention to enable him to get this benefit at the time of retirement. Government servants in Category (3) will obviously, not be entitled to count their previous service for pension.

3. The above arrangement will not apply to employees of the Governments of Jammu and Kashmir and Nagaland.

4. These orders come into force with effect from the date of issue and cases of all such Government servants retiring on this date and thereafter will be regulated accordingly.

(G.I.Deptt. of Per. & A.R. Letter NO. 3(20)/Pen.(A)/79 dated the 31st March, 1982, addressed to all State Governments except Jammu and Kashmir and Nagaland)

13. We note that even if the applicant's aided school service is taken as State Govt. service, the same would come under the 3rd category in para 2 of the above OM on the basis of what is stated by the State Government in A-1 order. In any case the above OM does not provide for counting the aided school service as State Government service.



14. We also note from para 5(2) of R-1A OM dated 29.8.1984 read with R-1A OM dated 7.2.86 that the applicant's aided school service is not eligible to be reckoned as qualifying service. The said para 5(2) reads as under:

(2) Where no terminal benefits for the previous service have been received, the previous service in such cases will be counted as qualifying service for pension only if the previous employer accepts pension liability for the service in accordance with the principles laid down in this Office Memorandum. In no case pension contribution/liability shall be accepted from the employee concerned.

15. As already held by us in A-1 order the State Government agreed to reckon the aided school service as qualifying service only because the applicant agreed to remit the pension contribution himself. This is not permissible as per the above para contained in the OM issued by the Govt. of India for the purpose of treating the said aided school service as qualifying service.

16. The impugned order A-8 reads as under:

No. PR1/PenA/353/AA/89-90/1224
21.10.97

Date

To

Shri P.D. Vasudevan Unni
Pournami, CMC XI/212
Cherthala P.O. PIN -688 524

Subject :Reckoning of aided school service along with Central Government service.

Ref: Your letter dated 27.8.97

Sir,

With reference to your letter cited I am to inform you as follows:

As already intimated in this office letter dated 15.4.94 the break should not exceed the actual joining time admissible for reckoning the service prior to break. In your case, the break is nearly one year. Hence, the aided school service cannot be



reckoned as qualifying service unless the break is condoned by special orders of Govt. of India. Further, revision of the claim is to be done by Pay & Accounts Officer. Hence you may contact the department for getting the break condoned by Govt. of India.

Yours faithfully,

Sd/- Senior Accounts Officer

The applicant does not deny that his break in service was not nearly one year. His case is that because of his sickness he was not able to join the new assignment which resulted in the break. To show that he was not well he produced A-6 certificate. As pointed out by the learned counsel for the respondents we find that A-6 certificate is issued on 10.3.94 for the period pertaining to 25.5.64 to 16.5.65. The said certificate reads as under:

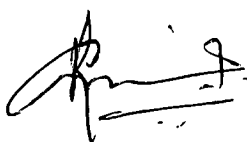
CERTIFICATE

This is to certify that Sri P.D. Vasudevan Unni, Pournami, CMC XI/203, Sherthalai P.O. was under my treatment for Kadighram from 25.5.64 to 16.5.65 and he was complete on bedrest on the above period.

He is fit for joining duty on 17.5.65

Sd/- Dr. P. Mahadeva Iyer
Retd. S.M.O.
Reg. No . 740
A Class 'AY'
Registered Medical practitioner

We find that the applicant enclosed the above certificate with his A-4 representation dated 11.3.94, but the second respondent did not accept the plea of the applicant to condone the interruption on the basis of the above certificate and issued A-5 reply dated 15.4.94. In A-8 the applicant had been advised to approach the Govt. of India for getting the break condoned by them. We find the applicant had not approached the Govt. of India for getting the break condoned. We do not find any merit in the plea of the applicant that such condonation is not called for. Para 2(1) of OM dated 31.3.92 relied on by the applicant for this plea cannot be accepted as the applicant was not retrenched

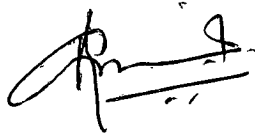


from the State service. On his own admission he got himself relieved from the aided school on 1.6.64. Hence we do not find any infirmity in A-8.

17. Further we find that Mumbai Bench of this Tribunal in its R-1B order dated 6.1.97 in O.A. No. 795/96 held that the service rendered between 19.7.59 and 8.1.66 by the applicant therein - an Assistant Teacher in a Government recognised and aided Secondary School in Baramati & Nira, for the purpose of pension could not be accepted accepting the plea of the respondents therein that OM dated 27.8.84 did not provide for service rendered by Central Government employees in private educational institutions to be treated as qualifying service for the purpose of getting terminal benefits. In para 2 and 3 of the above R-1B order this Tribunal held:

"2. In reply to the O.A. the respondents have stated that benefits of combined services in Central Government and autonomous bodies for purpose of pension and other retirement benefits are guided by the instructions issued by the Department of Personnel and AR OM dt. 29.8.84 and the same do not provide for service rendered by central govt. employees in private educational institutions to be treated as qualifying service for purpose of getting terminal benefits. Even otherwise Govt. of Maharashtra conveyed their acceptance to reciprocal arrangements for application of provisions of Govt. of India memorandum dt. 29.8.1984 by their order dt. 13.7.92 which are in force from prospective effect and the applicant has retired on 31.5.90 and therefore the applicant is not entitled to the relief claimed by him.

3. I am inclined to accept the contentions of the respondents and dismiss the O.A. with no order as to costs."



18. In the result, this O.A. fails and we hold that the applicant is not entitled for the reliefs sought. Accordingly we dismiss this Original Application with no order as to costs.

Dated the 21st February, 2002.



K. V. SACHIDANANDAN
JUDICIAL MEMBER

kmn



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

APPENDIX

Applicant's Annexures

- A1 True copy of the Go(Rt) NO. 3358/88/G.Edn. dt. 18.9.88 issued by the 3rd respondent.
- A2 True copy of the communication dt. 4.5.89 issued by the 2nd respondent to the 3rd respondent.
- A3 True copy of the letter dt. 8.11.88 sent by the applicant to the 3rd respondent.
- A4 True copy of the representation dt. 11.3.1994 submitted by the applicant before the 2nd respondent.
- A5 True copy of the rejection letter dt. 15.4.94 issued by the 2nd respondent.
- A6 True copy of the Medical Certificate dt. 10.3.1994.
- A7 True copy of the representation dt. 27.8.97 submitted before the respondents NO.1,2 and 4
- A8 True copy of the reply dt. 21.10.97 issued by the 2nd respondent.

Respondents' Annexure

- R-1A Photo copy of OM NO. 28/10/84-Pension Unit dated 29.8.84 read with letter No. 28/10/84-P &W Vol.II dated 7.2.86
- R-1B Photo copy of the order of the CAT in OA No. 795/96 dated 6.1.97 of the Mumbai Bench