

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 587 / 2009

Wednesday, this the 25th day of November, 2009.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE MR. K NOORJEHAN, ADMINISTRATIVE MEMBER

P.H.Joy,
Ex-Technician(Ernakulam Telephone Exchange),
now Administrative Assistant,
O/o the Chief Inspector of Plantations,
Kottayam.Applicant

(By Advocate Mr P.K.Ibrahim)

v.

The Principal General Manager,
Telecom,
BSNL Bhavan,
Ernakulam, Kochi-16.Respondent

(By Advocate Mr George Kuruvilla)

This application having been finally heard on 3.11.2009, the Tribunal on 25.11.2009 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Before he joined service as Senior Superintendent in the office of the Regional Joint Labour Commissioner, Kozhikode on 3.6.1986, the Applicant had put in 7 years of service as Technician in the Department of the Telecommunications under the Government of India from 3.4.1979 to 1.6.1986. He is due to retire on superannuation from State Service on 31.10.2010. While 30 years of service is required for availing full pensionary benefits, he has only 23 years of total service under the State Government. If the service rendered by him under the Central Government is also counted, he he may get full



pensionary benefits. Applicant has, therefore, made the Annexure A-2 representation dated 9.6.2009 to the respondent, viz, The Principal General Manager, Telecom, BSNL Bhavan, Ernakulam, Kochi stating that he was selected as a Technician in the Department of Telecom and worked under D.E. (Administration), in the office of the D.M. Telephone, Ernakulam after he got himself relieved from the office of the A.E., Auto Installation, New Telephone Exchange, Pochamma Maidan, Warrangal vide order dated 2.4.1979 (Annexure A-3). During his service in the Department of Telecommunication he was given commendation certificates, acknowledging his commendable suggestions given by him for the improvement in the operation of telecommunication services (Annexure A-4). While he was so serving he was selected as Senior Superintendent in the office of the Regional Joint Labour Commissioner, Kozhikode. He, therefore, tendered his resignation vide his letter dated 28.5.1986. The Divisional Engineer in the office of the District Manager, Telephones, Ernakulam, vide order dated 30.5.1986, informed the A.E., Tandem T.D. & S.S.X, Ernakulam that his resignation was accepted with effect from 1.6.1986 and he was directed to be relieved from the afternoon of 1.6.1986, if no disciplinary/vigilance case was pending/contemplated against him. The A.E., Tandem T.D. & S.S.X, Telephone Exchange, Ernakulam accordingly relieved him from service with effect from 1.6.1986 and he joined the office of the Regional Joint Labour Commissioner, Kozhikode as senior Superintendent on the forenoon of 3.6.1986. Since then, he has been in the service under the Labour Department of the Government of Kerala. Thereafter, the amount due to him from the provident fund account was also closed vide proceedings dated 21.3.1987.

2. He has further submitted that by virtue of certain Government order dated



29.8.1989, his previous service of more than 7 years regular service in the Department of Telecommunications as Technician under the District Manager, Telephones, Ernakulam eligible to be reckoned for the purpose of pension. He has, therefore, vide Annexure A-11 letter dated 15.5.2006 requested the Chief General Manager, Telecom, BSNL, Kerala Circle, Trivandrum to obtain his service book from the General Manager, Telecommunications, Ernakulam and forward the same to the Labour Commissioner, Trivandrum. He has also mentioned in the O.A that Shri K.K.Rajan and Smt P.P.Mary who joined the office of the District Manager at Ernakulam along with him are presently working as Sub Divisional Engineer, Phones at the Telephone Exchange, Pathanamthitta and Karikode, Kollam.

3. Respondent in the reply has submitted that this O.A is not maintainable either in law or on facts inasmuch as no legal or fundamental right of the applicant is infringed warranting interference by this Tribunal. Further, on merits they have submitted that no records relating to the applicant are available with the respondents. As regards the copies of the documents submitted by him, they have stated that they are not in a position to comment upon them as no materials as aforesaid was available with the respondents. They have pointed out that according to the applicant himself, he resigned from the then P&T Department in the year 1986 itself for joining the State Government. Now 23 years have elapsed since his resignation and in the meanwhile, the Post & Telegraph Department was bifurcated to Department of Posts (DoP) and Department of Telecom (DoT) and thereafter the DoT became the BSNL Company with effect from 1.10.2000. Even assuming but without admitting that the applicant had worked under the respondents, as per the rules regarding preservation period of the records, the service book of a Government employee who has resigned from service need to be preserved only for a period of five



years after his date of resignation. In this regard, they have filed a copy instruction (Annexure R-1) regarding preservation of service book and other records.

4. We have heard the learned counsel on both sides. First of all, it is noticed that the applicant is presently working under the Labour Department of Government of Kerala and they are a necessary party in this case. However, the applicant, for reasons best known to him, has not impleaded it in the party array. Secondly, the relief sought by the applicant is to direct the respondents to issue him a certificate regarding the service rendered by him from 3.4.1979 to 1.6.1986. The applicant has not cited any rules under which such certificates are to be issued by the former employer. In the absence of any rule, it is not possible for this Tribunal to direct the respondents to issue such certificate. Moreover, the fact of the matter is that the applicant had resigned from the service under the respondent on 31.5.1986. For the last 23 years, the applicant has not made any representation to the respondents regarding counting of his past service for the pensionary benefits. There are rules governing the question of counting past service for pensionary purposes. Instead of asking his own employer to count his past service, if it is permissible under the rules, for the purpose of determining qualifying period of service for pensionary purpose, the applicant has adopted a circumventory procedure asking his former employer to issue him a certificate regarding his past service. It is to be noted that even the Annexure A-2 representation was not routed through his present employer. In our considered opinion, this O.A. lacks merit. Accordingly the same is dismissed. There shall be no order as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER