

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 600/2002

Tuesday, this the 27th day of August, 2002.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

P. Sivasankara Pillai,
Pensioner(Retd. UDC of the
O/o the Official Liquidator,
High Court of Kerala,
Ernakulam),
Sankaramangalam House,
Kanjirakkad,
Rayonpuram P.O.,
Perumbavavoor,
Kerala - 683543.

... Applicant
(Party-in-Person)

Vs

1. Union of India, rep. by the
Secretary to Government,
Ministry of Industry,
Department of Company Affairs,
Sastri Bhavan, 5th Floor, 'A' Sing,
Dr. Rajendra Prasad Road,
New Delhi - 110001.
2. The Pay and Accounts Officer,
Department of Company Affairs,
Block No.I, 5th Floor, Sastri Bhawan,
26 Haddows Road, Madras-600006.
3. The Regional Director,
Ministry of Industry,
Department of Company Affairs,
(Company Law Board),
Block No.I, 5th Floor,
Shastri Bhawan, 26 Haddows Road,
Madras-600006.
4. The Registrar of Companies,
Kerala, M.G. road, Ernakulam,
Kochi - 682011.
5. The Official Liquidator,
High Court of Kerala,
Carmel Building, Baherjee Road,
Ernakulam, Kochi-682018.

... Respondents

(By Mr. Sunil Jose, ACGSC)

The application having been heard on 27.8.2002, the Tribunal on the same day delivered the following :

ORDER

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

The applicant after serving as a Combatant Clerk(Havildar Clerk) in the Army for 15 years, 3 months and 3 days from 17.4.1952 to 10.9.1967, on retirement got reemployed as L.D.C. in the Department of Company Affairs on 20.7.1967. On reemployment, the applicant exercised his option under Rule 19(1)(b) of the CCS(Pension) Rules, 1972 to have the defence services counted as qualifying service for pension and refunded in instalments the army pension received by him. While the applicant was nearing his superannuation, he submitted representation claiming seniority and promotion reckoning the rank he held as Combatant Clerk in the Army treating the civil service a continuation of the defence service or alternatively to allow him to make re-option to get his defence pension and civil pension separately. Finding no response on the representations, he approached this Tribunal by filing OA 911/90. The Tribunal finding that he was not entitled to carry out the seniority of the defence service to the civil service as the civil service was on a fresh recruitment, and that the option once made was final, dismissed the application by order dated 28.8.1991. Several years thereafter, the applicant submitted a representation dated 10.4.2002 claiming seniority in civil service w.e.f. 17.4.1952, the date on which he got enrolled in the Army. Finding no response to the representation, the applicant has filed this application for a direction to the respondents to reckon the seniority of the applicant in civil service from the date of his enrolment in the Army on 17.4.1952 as there was no break in service between the Army and Civil Service.

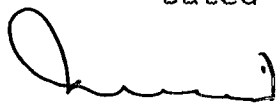
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2. We have heard Shri P. Sivasankaran Pillai, Party-in Person and Shri Sunil Jose, ACGSC, the counsel for the respondents.

3. The relief sought by the applicant in the application was earlier sought by him in OA 911/90. The Tribunal after adjudication of the rival contentions held that the civil service being on a fresh recruitment, he had no right to have his seniority as Combatant Clerk in the Army reckoned in the civil service. The application is barred by the principles of resjudicata and also by limitation.

4. In the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

Dated the 27th August, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1 : True copy of the representation dated 10.4.2002 of the applicant submitted to the respondent.
2. A-2 : True copy of the reminder dated 14th June 2002 of the applicant submitted to the respondent.
3. A-3 : True copy of letter No.Est/PF.69/1847/83 dated 4.4.1983 received from the Official Liquidator High Court of Kerala, Ernakulam, Cochin-682018.
4. A-4 : True copy of Judgement dated 28.8.1991 of this Hon'ble Tribunal in O.A. 911/90.

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