

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 606 OF 2011

Tuesday, this the 13th day of March, 2012

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

A.M. Fathima Manikka,
Assistant Engineer,
Lakshadweep Public Works Department,
Sub Division Office, Minicoy,
Union Territory of Lakshadweep.

... Applicant

(By Advocate Mr. M.V. Thamban)

versus

1. Union Territory of Lakshadweep,
Represented by the Administrator,
Kavaratti-682 555.
2. The Superintendent Engineer,
Lakshadweep PWD, Union Territory of
Lakshadweep, Kavaratti-682 555.
3. The Secretary (Works), Union Territory of
Lakshadweep, Kavaratti-682 555.

... Respondents

(By Advocate Mr. S. Radhakrishnan)

The application having been heard on 27.02.2012, the Tribunal on 13.03.2012 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant who is presently working as Assistant Engineer (Civil) under the Lakshadweep Administration and suffering from a peculiar allergy due to the close proximity with the saline water, was absent from duty for certain periods in 2005 and 2006. She had been in the main land for treatment. She had to stay at Kavaratti from 15.11.2005 to 16.12.2005 to



meet the Administrator and to get orders. She prays for regularisation of the days she had not been present in the office on account of her medical treatment as on duty for all purposes including full salary as well as TA/DA for the official movements and increments due during 2005 and 2006. This Tribunal had disposed of O.A. No. 385/2007 filed by the applicant herein, vide order dated 23.04.2008 directing the respondents to consider her representation. The same has not been considered and disposed of by the respondents.

2. The respondents' stand is that she was permitted to stay at Cochin on leave. The expenses incurred for her journey for the purpose of medical check up had been reimbursed. The applicant never followed the rules and instructions regarding leave. She was not regular in attending to her duties. Her only demand is that she should be posted at Cochin. But the department has constraints to do so and has to be considerate to other employees, also.

3. We have heard Mr. M.V. Thamban, learned counsel for the applicant and Mr. S. Radhakrishnan, learned counsel appearing for the respondents and perused the records.

4. Transfer is an incidence of service. An employee has to take leave when he/she is not able to attend office on account of medical treatment. Therefore, the applicant does not have a right to demand for a posting at a particular place or to count the days of medical treatment as days on duty. The Administrator has been considerate in granting her permission to go to Kochi for treatment and in reimbursing the expenses. This would show that



the respondents have no doubt about her medical condition. Withholding of increment, which is a punishment, without following due procedure, is not legal. If the applicant has to wait for days together to get an appointment with the Administrator and to get orders, it is not fair. The direction of this Tribunal in O.A. No. 385/2007 to consider the representation of the applicant and dispose of the same, has not been complied with.

5. Having regard to the facts of the case, we are of the considered view that the Administrator should regularise the absence of the applicant from duty on medical ground, by granting earned leave, commuted leave or half pay leave in her credit and if necessary, extra ordinary leave. The waiting period for appointment with the Administrator and for getting orders should be regularised to the extent found reasonable by the Administrator and balance of days, if any, should be regularised by granting leave as above. The increments due to the applicant should also be released forthwith.

6. Ordered accordingly. Appropriate orders should be issued by the respondents with a period of 60 days from the date of receipt of a copy of this order. The OA is disposed of as above with no order as to costs.

(Dated, the 13th March, 2012)



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.