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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.613/2010

Tuesday this the 17 th day of August, 2010

CORAM:

HON'BLE MR.JUSTICE K.THANKAPPAN,JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH,ADMINISTRATIVE MEMBER

S.Sulochana,
W/o K.Mukundan, aged 48 years,
Senior Social Security Assistant,
Employment Provident Fund Organization,
Calicut-6.(on leave) residing at Gowrigiri Nikethan,
No.19/40, Edatheru, Near Telephone Exchange,
Kuzhithurai P.O.,
Kanyakumari District, Pin-629163.Applicant

By Advocate: Sri M.R.Hariraj

vs.

1. Regional Provident Fund Commissioner I, Trivandrum.
2. Additional Central Provident Fund Commissioner,Kerala and Tamil Nadu, Regional Office, Chennai.
3. Central Provident Fund Commissioner, Employees Provident Fund Organization, Head of Office, Bhavishya Nidhi Bhawan, Bhikaji Cama Place, New Delhi-110066.Respondents

By Advocate:Shri N.N.Sugunapalan,Senior with Mr.S.Sujin



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ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN,JUDICIAL MEMBER:

This Original Application has been brought to the Registry for registration and numbering. Registry has noted that the Original Application is defective on 3 grounds, firstly, it is noted that the applicant claimed plural remedies in one single O.A. Secondly, it is noted that O.A. is time-barred as per Section 21 of the Administrative Tribunals Act,1985.Thirdly, it is noted that the particulars of the third respondent is incomplete. Subsequently the O.A. has been represented on rectifying the second and third defects but the first defect noted has not been cured. Hence the O.A. is brought to the notice of the Bench on numbering the O.A.

2. The defect thus noted requires judicial consideration as rule 10 of the C.A.T.(Procedure)Rules provides that "an application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another". As this defect has been noted

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by the Registry, the Bench has posted the question for a judicial decision on hearing the counsel appearing for the applicant Mr. M.R.Hariraj and Mr. N.N.Sugunapalan appearing for the respondents. The Bench also directed to put a public notice for considering the question and invited attention of the lawyers appearing before this Tribunal to address the matter. Hence this question has been addressed by the counsel for the parties in the case and the Senior Central Govt. Standing Counsel, Mr. Sunil Jacob Jose, Mr. T.C.Govidawamy, Mr. P.S. Biju, Mr. Pradeep Krishna, Mr. P. Santhosh Kumar and Sri S. Radhakrishnan.

3. Shri Govinda Swamy, learned Advocate invited the attention of this Bench to the decisions reported in 1987(4) ATC 259 in Rajayya Basi vs. P.M.G., Orissa Circle and others; 1991 (17)ATC 875, S.D.Prasad vs Union of India and others; 1991(18) ATC 921, Lacchman Dass Garg vs. Union of India and others and 1992(22)STC 302, Kalicharan vs. Union of India & others. Relying on the above judgments, Mr. Govinda Swamy argued that rule



10 of the C.A.T.(Procedure)Rules, 1987 clearly provides that for a single cause of action single application can be filed and if causes of action are multiplied or multifarious the reliefs claimed on each cause of action shall be separate and shall be considered as separate Original Applications. Mr.Govinda Swamy also contended that it is the duty of the Registry to verify and differentiate the nature of the cause of action and the relief or reliefs sought in the O.A. and it requires the legal expertness. Hence it is only proper for the concerned Bench or Benches to decide the issue on a note/defect, if any, noted by the Registry before numbering the O.A. or registering the same. Mr. Sunil Jacob Jose and Sri S.Radhakrishnan, Sr.Counsels of this Bench also support the view expressed by Mr. Govinda Swamy and further the counsel submit that as per rule 7 of the Procedure Rules every application filed with the Registry shall be accompanied by a fee of Rs.50/- to be remitted either in the form of crossed demand draft on a nationalized bank in favour of the Registrar of the Bench concerned and payable at the main



branch of that bank at the station where the seat of the Bench is situated or through crossed Indian postal order. This rule actually contemplates, according to the counsel, that each cause of action shall be a basis for filing distinct and different Original Applications with distinct and different court fee of Rs.50/- each. If so, a combined reading of rule 7 and rule 10 provide separate application on separate cause of action seeking a single relief or more than one reliefs provided the reliefs are consequential to one another and if reliefs sought are distinct and different, distinct or separate Original Application has to be filed with court fee as provided under rule 7. If so, any application filed for more than one relief unconnected and non-consequential should be treated as a separate O.A. S/Sri P.S.Biju, Pradeep Krishna and P.Santhosh Kumar also endorsed the arguments of Mr.T.C.Govinda Swamy with regard to the procedure to be followed. Mr.Hariraj appearing for the applicant is of the view that if separate applications for separate cause of action has to be filed for more than one relief unconnected or

68

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non-consequential it will create difficulties to the parties as well as the lawyers appearing in such cases. As far as the provisions of the Procedure Rules do not contemplate separate procedure where rule 10 is being applied and in such cases this Tribunal itself can take a legal decision in the matter.

4. In the light of the contentions raised before us, the question to be decided is that whether it is proper or justifiable or efficacious to allow to file single application in which more than one reliefs, unconnected or non-consequential but arises from the same set of facts, to take each and every reliefs separately and to remit separate court fee as provided under rule 7 or not? Before answering the question raised, it is advantageous to go through the provisions of the Administrative Tribunals Act,1985(hereinafter be referred to as 'the Act') and the Central Administrative Tribunal(Procedure) Rules, 1987(hereinafter be referred to as 'the Procedure Rules'). Sub section 1 of Section 22 of the Act provides that a

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Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private. Rule 7 of the Procedure Rules provides "Every application filed with the Registrar shall be accompanied by a fee of rupees fifty to be remitted either in the form of crossed demand draft on a nationalized bank in favour of the Registrar of the concerned Bench and payable at the main Branch of that bank at the station where the seat of the said Bench is situated.". The rule further provides that the Tribunal may permit a single application to be filed, either by more than one person or by an Association, the fee payable shall be rupees fifty. The rule also permits exemption of payment of such fee if the Tribunal is satisfied that an applicant is unable to pay the prescribed fee on ground of indigence. Further it could be seen from the O.M.



No.12018/4/86-AT dated 22nd May,1987 issued by the Govt. of India, Department of Personnel & Training that payment of fixed fee of Rs.50/- at the time of filing an application in the Central Administrative Tribunal is necessary and no other fee other than the application fee and process fee are payable by the applicants while filing applications before the Tribunal. The said O.M. specifically excludes the application of provisions of the Court Fees Act,1970. Further, rule 10 of the Procedure Rules provides that an application shall be based upon a single cause of action and may seek one or more reliefs, provided that they are consequential to one another.

5. A reading of the above provisions of the Administrative Tribunals Act and the Procedure Rules would clearly indicate that an application under Section 19 of the Act shall be instituted before the Tribunal on a single cause of action. The term 'cause of action' is not defined either in the Act or the Procedure Rules. Under the provisions of the Code of Civil Procedure as interpreted by the courts, the term 'cause of

Q9

'action' means every fact which would be necessary for the plaintiff to prove if traversed in order to support the right of the plaintiff and further it can be seen that the cause of action is a bundle of facts which constitute a claim to be decided by the court of law. So the cause of action derives from a set of facts or sets of different facts or different fact situations constitute different causes of action which may give rise to a claim to be answered or relief to be sought, in such cases, the question to be decided is that whether a single application can be filed before the Tribunal or not. There are cases wherein different and distinct fact situations give rise to different causes of action which may seek different and distinct reliefs. If so, as per the provisions of the Act and the Rules, a single cause of action though arises from a single fact situation or different causes of action arise from one set of fact situation would be amenable for filing more than one application. For example, an applicant challenges the disciplinary proceedings started against him as well as his transfer as ordered by the authority on the basis of the

22

initiation of the disciplinary proceedings. In such situation or under such circumstances different causes of action arise which have to be answered by different reliefs by filing a single application. Rule 10 of the Procedure Rules provides that a single application can only be filed on a single cause of action. But the rule does not contemplate fact situations which may give rise to different causes of action seeking more than one relief unconnected and non-consequential or separate and distinct reliefs to be granted by the Tribunal. In such circumstances what course should be adopted by the Registry with regard to the payment of court fee as provided under rule 7. At this juncture the view expressed the Central Administrative Tribunal, Jabalpur Bench in Kalicharan's case (cited supra) can be referred to. In the above case the applicant moved an application for crossing of efficiency bar with effect from 1.4.1976 and consequentially payment of arrears of interest fixing seniority above a respondent and for fixation of his pay as per the recommendation of the 4th Pay Commission. The Jabalpur Bench found that the seniority



and rewards being not consequential to the imposition of the bar in the pay scale it was ordered that the applicant could not seek multifarious reliefs in his petition in the light of rule 10 of the Procedure Rules. In that case the Tribunal considered the only claim of the applicant for crossing of efficiency bar in the pay scale of Rs.425-700 and the other claim was not decided by the Tribunal. It is also further to be noted that in the order passed by the Central Administrative Tribunal, Principal Bench in Lacchman Dass Garg's case(cited supra) the Principal Bench interpreted rule 10 of the Procedure Rules and held that the applicant therein can file an application only based on a single cause of action and he cannot seek two remedies namely the continuation of the impugned enquiry proceedings initiated against the applicant and the transfer of the applicant to Jaipur. The Bench had decided the only issue of continuation of the enquiry proceedings . As far as his transfer is concerned, the applicant was directed to file a separate application, if so advised. The same issue was also raised in S.D.Prasad's case(cited supra) and the C.A.T.,Patna Bench held



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that both the claims of the applicant for penal interest over the delayed payment and payment of monthly rent of past period cannot be decided by one application as the application hits by rule 10 of the Procedure Rules. Further in the earlier decision in Rajayya Basi's case(cited supra) the Principal Bench, New Delhi considered the application of the provisions of Court Fees Act for filing applications before the Tribunals and the refund of such fee as the applicant has not pressed the application. Though the Principal Bench in this order considered only rule 7 of the Procedure Rules, the Bench categorically held that the provisions of the Court Fees Act, 1970 is not applicable for applications filed under Section 19 of the Act.

6. In the light of the above decisions, we have to consider the issue and take a final decision. While deciding the issue we have to consider the difficulties to be faced by the applicant when more than one relief unconnected though arises from the same set of facts and also may give rise to more than one



cause of action. In the light of the contentions raised by Mr. Govinda Swamy and Shri S.Radhakrishnan with regard to the difficulties which an applicant may face especially in the matter of time and the procedure to be adopted, it is only proper for this Tribunal to adopt a via media procedure for resolving the question. Rule 7 of the Procedure Rules permits more than one applicant joining together to file an application and claim a common relief. At the same time such applicants have to pay only one court fee and the court fee shall not depend upon the reliefs or the cause of action on which a single relief is sought or one relief or more than one which are consequential or connected. But it should be bear in mind that different causes of action may arise from the same set of facts and in such cases different reliefs or more than one relief can also be sought and in such cases it is proper for the Registry or the Bench concerned to verify whether the cause of action or causes of action are connected or unconnected and the reliefs sought are consequential or different or distinct. If the reliefs are different and distinct, the

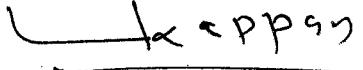
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applicant may be directed to remit separate court fee as prescribed under rule 7 of the Procedure Rules for seeking such different and distinct or unconnected reliefs. If such a procedure is adopted it will minimize the time and efforts and the work of the lawyers appearing instead of directing separate application for separate reliefs sought. Rule 10 of the Procedure Rules does not bar such a procedure to be adopted as the rule only provides that a single cause of action shall be a basis for single relief or reliefs which are consequential or connected with the one sought in the application. We are of the view that if such a procedure is adopted it will be appropriate as Section 22 of the Act empowers the Tribunal to regulate its own procedure especially the application of the provisions of the Court Fees Act, 1970 and court fees and Suit Valuation Act and rules are excluded in the Tribunals. The further question to be considered is that if such a procedure is adopted who will be competent to verify the cause of action and the reliefs sought. Is it either by the Registry or by the Bench concerned? We are of the view that at the first

08

stage it is the duty of the Registry, not below the rank of a Deputy Registrar of the Tribunal to verify the issue and if any doubt arises it may be sent to the Bench concerned by such official of the Tribunal with his note, if any, and finally the issue will be decided by the Bench concerned. On the decision being taken on the issue, the Registry will be directed to allow the applicant to cure the defect and register the application on numbering the same. With the above views, the question is answered accordingly. The Original Application shall be placed before the Registry to proceed with the case as per the directions contained in this order. Ordered accordingly.


(K.GEORGE JOSEPH)
MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.613/10

Friday this the 19th day of November 2010

C O R A M :

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

S.Sulochana,
W/o.K.Mukundan,
Senior Social Security Assistant,
Employment Provident Fund Organisation,
Calicut – 6. (on leave)
Residing at Gowrigiri Nikethan,
No.19/40, Edatheru, Near Telephone Exchange,
Kuzhithurai PO, Kanyakumari District – 629 163.Applicant

(By Advocate Mr.MR Hariraj)

V e r s u s

1. Regional Provident Fund Commissioner I,
Trivandrum.
2. Additional Central Provident Fund Commissioner,
Kerala and Tamil Nadu, Regional Office, Chennai.
3. Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Head Office, Bhavishya Nidhi Bhavan,
Bhikaji Cama Place, New Delhi – 110 066.Respondents

(By Advocate Mr.N.N.Sugunapalan,Sr. along with Mr.S Sujin)

This application having been heard on 19th November 2010 the
Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Though the applicant challenged Annexure A-10 transfer order,
counsel for the applicant now confined to the argument to the disposal of
Annexure A-19 and Annexure A-20 representations, the relief No.2 in this



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O.A. We have considered the present stand taken by the applicant. We have also heard the counsel appearing for the respondents, Shri.John Mani.V on behalf of Shri.N.N.Sugunapalan,Sr and the counsel appearing for the applicant Shri.M.R.Rajendran Nair,Sr on behalf of Shri.M.R.Hariraj.

2. The present stand taken by the counsel appearing for the applicant is only to the effect that the representations/appeals filed by the applicant before the 2nd respondent may be directed to be considered by the 2nd respondent and dispose of the same within a reasonable time.

3. We feel that such a relief can be given in this O.A itself by disposing of the application itself. Consequently, we direct the 2nd respondent to consider Annexure A-19 and Annexure A-20 representations and dispose of the same within a reasonable time, at any rate, within 30 days from the date of receipt of a copy of this order. O.A stand disposed of accordingly.

No costs.

(Dated this the 19th day of November 2010)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER

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JUSTICE K.THANKAPPAN
JUDICIAL MEMBER