

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.69/2002

Wednesday this the 12th day of June, 2002

C O R A M

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

K.M.Pillai,
Ex-Pay and Accounts Officer,
Dandakaranya Project,
Residing at :
Palappalil House,
Eazhakkadavu, P.O,
Cherukole,
Mayelikara - 4

: Applicant

[By Advocate Mr R.Rajasekharan Pillai]

Vs.

1. The Union of India represented by
the Secretary,
Ministry of Home Affairs,
Rehabilitation Division,
Jaisalmer House,
Mansingh Road,
New Delhi - 11.

2. The Secretary,
Department of Pension and Pensioner's Welfare,
Ministry of Personnel,
Public Grievances and Pensions,
New Delhi

: Respondents

[By Advocate Mr M.R.Suresh,ACGSC rep. by Mr.Rajendra Kumar]

The application having been heard on 12th June, 2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant commenced service under Dhandakaranya
Development Authority on 8.2.1960 and while so on 1.9.1993 he
went on deputation to the Hindustan Aeronautics Limited (HAL for
short) retaining his lien with the Dhandakaranya Project. He
ultimately got absorbed permanently in Hindustan Aeronautics
Limited with effect from 2.9.1985. For the services rendered by

him in Dhandakaranya Project the applicant was granted pension which was commuted in its entirety. Annexure A-1 is the PPO in that regard. As the admissibility of family pension was not certified inspite of repeated demands, the applicant filed the Original Application 747/97 which was allowed. In terms of the directions in that judgment the admissibility of family pension dated 21.1.98 was issued by the Pay & Accounts Office, Ministry of Home Affairs, a copy of which is placed as Annexure A-VI. Government of India issued an O.M dated 5.3.87 regarding the revival of pension of officers who had commuted their pension on absorption. Para 4 of the O.M which deny the benefits of revival of 1/3 of pension who had commuted the entire pension was a subject matter of litigation and in the Common Cause Case, the Apex Court held that such a provision was not justified. Consequently, Government of India, Ministry of Personnel, Public Grievances & Pension, Department of Pension and Pensioner's Welfare issued an O.M dated 30.9.96, No.4/3/86-P&PW(D) (Annexure A-III) wherein inter-alia it is stipulated as follows :-

"The question regarding implementation of the Supreme Court Judgment has been under consideration of the Government. The President has now been pleased to decide that para 4 of the O.M dated 5th March, 1987 shall be deemed to have been deleted. Accordingly, the benefit of the restoration of commuted pension shall be admissible to all those Government servants who had been absorbed in public sector undertakings/autonomous/statutory bodies notwithstanding the fact that having commuted the full pension they are not in receipt of any monthly pension."

2. As the pension of the applicant was commuted on 2.9.85 the applicant became entitled for revival of 1/3 of pension with effect from 2.9.2000 on completion of a period of 15 years. The applicant submitted a representation in this regard on 19.1.2001

requesting that 1/3 of his pension may be revived. But so far he has not received any order reviving his 1/3 pension. Under these circumstances, the applicant has filed this Original Application for a direction to respondents 1 & 2 to restore 1/3 of the pension of the applicant with effect from 2.9.2000 and disburse the same alongwith 12 % interest as also to revise the family pension report. The applicant has claimed penal interest.

3. Though the respondents were given sufficient opportunities to file reply statement, they did not file any reply statement. Therefore the right of the respondents to file reply statement stood forfeited. We have perused the application and the other materials brought on record. We have also heard Mr.Rajendra Kumar appearing on behalf of Mr.M.R Suresh, ACGSC. Mr.Rajasekharan Pillai invited our attention to Para 3 of Annexure A-III O.M dated 30.9.96. He argued that on the basis of the decision of the Government of India as the applicant who had commuted the entire pro rata pension is entitled to have 1/3 of his pension revived after expiry of a period of 15 years from the date of commutation. Learned counsel appearing for respondents is not in a position to state any reason as to why the claim is not sustainable. In view of the fact that the Government of India has decided to revive the 1/3 of pension even in cases where pensioners had commuted the entire pension, the applicant is entitled to have 1/3 of his pension revived with effect from 2.9.2000 as a period of 15 years from the date of commutation expired on that date. The family pension as contained in Annexure A-VI has also got to be revised in accordance with the revised pay and pension rules.

4. In the light of what is stated above, the application is allowed. The respondents 1 & 2 are directed to restore 1/3 of the pension of the applicant with effect from 2.9.2000 and make available to the applicant the arrears resulting therefrom within two months from the date of receipt of a copy of the order. The respondents are also directed to issue necessary orders revising the family pension as contained in Annexure A-VI report according to the revised pay/pension rules. If payment is made beyond the period of two months, interest at 12 % per annum should be paid for ^{such} ~~the~~ delayed periods. No order as to costs.

Dated this the 12th day of June, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

vs

APPENDIX

Applicant's Annexures:

1. A-I : True copy of the Pension Payment order of the applicant dated 18.1.86.
2. A-II: True copy of the letter No.10(3)/97-Litig dated 3.2.98 issued to the applicant by the 1st respondent.
3. A-III: True copy of the office Memorandum No.4/3/86-P&PW(D) dated 30.9.96 issued by the 2nd respondent.
4. A-IV: True copy of the letter dated 23.10.2001 submitted by the applicant before the 1st respondent.
5. A-V: True copy of the Office Memorandum No.4/5/2001-P&PW(D) dated the 1st March 2001 issued by the 2nd respondent.
6. A-VI: Order No.10(3)/97 D/21.1.98 PAO(Pension & Misc.), Ministry of Home Affairs Admissibility Report of Family Pension in respect of Shri.K.M.Pillai.

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14.6.02