

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.73/2003

Dated Friday this the 26th day of September, 2003.

C O R A M

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

V.Nalarajan
Junior Engineer
(Quality Survey & Contract)
Office of the Garrison Engineer (I)
Electrical & Mechanical
Naval Wharf
Naval Base, Kochi.

Applicant

(By advocate Mr.K.R.B.Kaimal)

Versus

1. Union of India represented by
The Secretary
Ministry of Defence
New Delhi.
2. The Principal Controller of Defence Accounts
(Pension), Allahabad.
3. The Chief Engineer
Southern Command Headquarters
Engineers Branch
Pune.
4. The Garrison Engkneer (I)
Elecrrical & Mechanical
Naval Wharf
Naval Base
Kochi.

Respondents

(By advocate Mrs.Rajeswari A, ACGSC)

The application having been heard on 26th September, 2003,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant on his retirement from Army on 31.7.1991 got re-employed as Junior Engineer in the office of the 4th respondent with effect from 7.5.1993. He retired from civil service on superannuation on 31.3.2003. On the date of his superannuation, he had rendered a total service of 9 years 10 months and 25 days according to him (21 days according to the

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respondents). The claim of the applicant for superannuation pension was turned down by A1 order dated 28.10.2002 issued by the 3rd respondent on the ground that he having rendered a service of only 9 years 10 months and 20 days which is less than the minimum 10 years required for ex-serviceman for earning pension for civil service, he would be entitled to receive only the retirement gratuity and service gratuity and no pension. Although the matter was further taken up by the applicant, orders dated 17th December, 2002 and 17th March, 2003 were issued to him indicating that in terms of A-1 order, action had been taken for grant of retirement gratuity and service gratuity although it was indicated that the matter was being referred to CDA for clarification. Aggrieved that the applicant's entitlement for pension as per rules has been denied and the retiral benefits of the applicant not been paid the applicant has filed this application seeking to set aside A-1, A-4 and A-8 and for a direction to respondents 2 & 3 to treat the applicant as having qualifying service of 10 years and to sanction all the pensionary benefits due to him w.e.f. 1.4.2003.

2. A reply statement has been filed by the 4th respondent. It is conceded in the reply statement that since the applicant has rendered service on a civil post for 9 years 10 months and 21 days, in accordance with the Government of India, Department of P&PW, PPG &P, New Delhi DO No.38/73/90-P &PW(F) dated 20.8.1990 the service of 9 years 10 months and 21 days would be rounded off to 10 years and that the applicant is entitled for pensionary benefits and other retiral benefits, that the matter has been

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taken up for re-submitting the pension documents to PCDA(P) Allahabad for grant of pension and that an order would be issued soon. The respondents further state that in the circumstances, the OA which is devoid of merits may be dismissed.

3. I have carefully gone through the pleadings and have heard the learned counsel on either side. Sub Rule 3 of Rule 49 of Civil Service Pension Rules reads as follows:

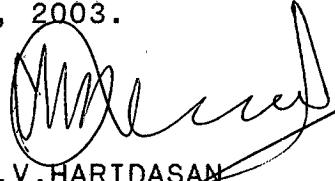
"(3) In calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated as a completed one half-year and reckoned as qualifying service."

4. Had the statutory provision and the letter No.38/73/90-P7PW(F) dated 20th August, 1990 of the Government of India, Department of P&PW, PPG&P New Delhi, referred to in paragraph 4 of the reply statement been perused by the competent authority before turning down the claim of the applicant for pension by issuing the impugned order Annexure A-1, the applicant would have been paid his pension and other terminal benefits with effect from the due date. On account of the non-receipt of pension, gratuity and other entitlement, the applicant has been put to avoidable loss. The loss caused to the applicant had been the direct consequence of the lapse on the part of the competent authority to look into the legal position before turning down the rightful claim of the applicant. Now that the respondents have conceded the right of the applicant for pension, I am satisfied that the interests of justice would be met if the respondents are directed to compute the entire terminal benefits due to the applicant and make available the same to the applicant within two months with interest at 6 per cent per annum from 1.4.2003 till the date of payment and to pay cost to the applicant.



5. Accordingly the application is allowed. The respondents are directed to compute the pensionary benefits of the applicant and make available to him the retiral benefits within three months with interest on gratuity and other benefits at 6% per annum with effect from 1.4.2003 till the date of payment and also to pay to the applicant a sum of Rs.1000/- as costs.

Dated 26th September, 2003.



A.V.HARIDASAN
VICE CHAIRMAN

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