

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.94/2006

Monday this the 2 nd day of April, 2007.

CORAM:

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER**

1. C.G.Krishnakumar, S/o Late C.D.Ganeshan,
Madathiparambil House, Vadakkekara P.O.,
Pattanam, North Paravur, Ernakulam -683522.
 2. M.D.Malathi,
W/o Late C.D.Ganeshan,
Madathiparambil House, Vadakkekara P.O.,
Pattanam, North Paravur,
Ernakulam -683522.
- Applicants

(By Advocate Shri M.V.Bose)

Vs.

1. Union of India, represented by its Secretary,
Ministry of Defence, New Delhi.
 2. Flag Officer Commanding-in-Chief,
Head Quarters,
South Naval Command, Kochi.
 3. The Base Victualling Officer,
Base Visualing Yard,
Naval Base, Kochi-16.
- Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 2.4.2007,
the Tribunal on the same day delivered the following:


ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

This application has been filed by the son and wife of late C.D.Ganeshan, who was an employee under the 3rd respondent, Naval Base, Cochin. The applicants seek a declaration to the effect that, late Shri Ganesan had retired from service only on medical grounds and not


on superannuation. They have sought some other follow up reliefs also. The first applicant had earlier approached this Tribunal in O.A.503/2001 seeking for a direction to the respondents to appoint him under the Scheme for Employment Assistance on Compassionate Grounds and the said O.A. was rejected under Section 19(3) of the Administrative Tribunals' Act, as the claim of the applicant was not found to be covered by the Scheme since the applicant's father had retired on superannuation. In the present O.A. the reliefs sought in the earlier O.A. has been modified to the extent of seeking a declaration that the 2nd applicant's husband retired from service on medical grounds in 1994.

2. The respondents have filed a reply statement stating that the grounds mentioned by the applicants are not sustainable. It is seen from the facts submitted by the respondents that, late CD Ganeshan entered service on 21.2.1966 and had been availing leave frequently and availed long leave on medical grounds from 21.4.1994 to 31.8.1994. In addition, he availed Extra Ordinary Leave without pay on Medical Certificate from 1.9.1994 to 30.4.1995. He attained the age of superannuation on 30.4.2005. As per the records he applied for leave on medical grounds with effect from 21.8.1994 and extended the same till 30.4.1995 i.e. his date of superannuation from service. The applicants are under the mistaken impression that, mere submission of a medical certificate can be the basis for consideration for invalid pension, in effect the applicant was on leave on medical grounds and continued on leave till he retired on superannuation. This cannot be construed as retirement on medical invalidation which can be permitted as per rules, only before attaining the age of 55 years, and after following due procedures. The contentions of

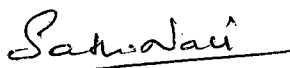


the applicants are not sustainable on facts or law. We are of the view that the O.A. has no merit and it is accordingly dismissed.

Dated the 2 nd April 2007.



Dr.K.B.S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN