

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.108/2003.

Wednesday, this the 17th day of December, 2003.

C O R A M

HON'BLE MR.T.N.T. NAYAR, ADMINISTRATIVE MEMBER

K.K. Karthikeyan, S/o. Kuttaru,  
Last employed as Monument Attendant in  
The office of the Superintending Archaeologist,  
Archaeological Survey of India, Thrissur,  
Residing at Kanara House,  
Post Peringottukara,  
Thrissur District,  
Kerala State : 680 565

..Applicant.

[By Advocate Mr. Ashok M. Cherian]

Versus

1. Union of India represented by  
The Director General,  
Archaeological Survey of India,  
(Ministry of Culture, Youth  
Affairs & Sports), Janpath,  
New Delhi - 110 001.
2. The Director General,  
Archaeological Survey of India,  
Janpath, New Delhi.
3. Superintending Archaeologist,  
Archaeological Survey of India,  
(Ministry of Culture, Youth  
Affairs and Sports),  
Thrissur Circle, Thoppinmoola,  
Aranattukara, Thrissur - 680 618.
4. The Senior Accounts Officer,  
The Pay and Accounts Office,  
Archaeological Survey of India,  
Hyderabad, Andhra Pradesh.

..Respondents.

[By Advocate Mr. C.Rajendran, SCGSC]

O R D E R  
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant who had put in 9 years, 7 months and 21 days of regular service consequent on his regular appointment as Monument Attendant under the respondents with effect from 11.12.1990, has admittedly retired from service on 31.7.2000. His grievance is that 50% of his service for which payment has

been made out of Government contingency, has not been reckoned for the purpose of superannuation pension as per extant orders. The applicant's case is that though he entered the respondent's organisation, namely, Archaeological Survey of India, as a casual worker in 1977, he had continuous unbroken service as Monument Attendant on casual basis since 1985 that he continued to be so till 1990, when his service was regularised as mentioned above. Apparently, the applicant's representations for reckoning 50% of his past services for the purpose of superannuation pension has not met with success. Aggrieved by the inaction by the second respondent in passing orders on his representations A/2, A/4 and A/5, the applicant has filed this O.A. praying for a declaration that the applicant is entitled to superannuation pension counting 50% of his casual service paid from Government contingency with his regular service and a direction to the respondents to disburse the superannuation pension with interest to the applicant.

2. Reply statement has been filed by the applicant today enclosing R/1 communication dated 6.3.2003 in order to support the argument that when the applicant entered casual service, he was already 33 years and that as such he was overaged and that no age relaxation was obtained at the time of his regularisation as Monument Attendant. According to the respondents, it would be evident from Annexure R/1 that the age limit for Monument Attendant was 30 years and, therefore, the applicant was undoubtedly overaged. Apart from that, the respondents would point out that the applicant's claim could not be considered on account of the break in his casual service.

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3. I have gone through the case record and have heard Shri Santhosh G. Prabhu (representative for Mr. Ashok M. Cherian), learned counsel for the applicant and Shri C. Rajendran, SCGSC, for the respondents.

4. According to the learned counsel for the applicant, the applicant's service was regularised with effect from 11.12.1990 and no objection with regard to his being overaged has not been raised at the appropriate time. The applicant was also not advised as to the requirement regarding the age relaxation, if at all called for. After regularisation, the applicant worked to the entire satisfaction of the respondents. At this distance of time, there cannot be an argument to the effect that the applicant was overaged at the time of his entry into service and that therefore, his claim for superannuation pension was hit by that. With regard to the alleged break in the applicant's service, learned counsel for the applicant submitted that no break in service was pointed out by the respondents except that the applicant worked for only 85 days in 1986. The learned counsel for the applicant would urge that the applicant had continuous casual service between 1985 and 1990 even on the basis of A/1 communication of the second respondent. His case for age relaxation also has been recommended by the second respondent, according to the applicant's counsel. In view of the said position, he was entitled to reckoning of 50% of his past casual service, which was evidently more than two and a half years alongwith the actual regular service of 9 years, 7 months and 21 days, the learned counsel would maintain.

5. Shri C. Rajendran, SCGSC, has argued that there is no evidence to show that the applicant has unbroken service till the date of his retirement. In any case, the applicant who was already overaged at the time when he entered into casual service,

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cannot claim superannuation pension. It was argued by the learned counsel that the upper age limit when he joined casual service was 30 years whereas the applicant was 33 years. Since he has not obtained any age relaxation, the benefit as claimed by the applicant cannot be granted, according to the learned counsel.

6. On a consideration of the relevant facts with regard to the arguments put forward on either side, I am of the view that the respondents' contention that the applicant was overaged when he entered the service and that, therefore, he is not entitled to superannuation pension, has to be rejected. At the time of regularisation of his services on 11.12.1990, the respondents did not consider this aspect. They ought to have in all fairness taken steps for age relaxation since the applicant's service was regularised. It is an admitted fact that the applicant's service was regularised with effect from 11.12.1990 and that he retired on 31.2.2000 after having put in 9 years, 7 months and 21 days of regular service. It is seen from A1 communication dated 30.6.2000 of the second respondent addressed to the first respondent that the applicant had continuous casual service from 1985 and that he was eligible for pensionary benefits by reckoning such service. By Annexure A/1, the second respondent has also strongly recommended for granting age relaxation to the applicant as the records received from Chennai did not disclose the details in that regard. From the particulars furnished under R/1 communication, it would appear that the applicant had put in more than 1634 days, i.e., 4 years, 5 months and 24 days prior to his regularisation. The respondents have, however, not given the details of his attendance during 1990. He had two years continuous service between 1977 and 1978. There was unbroken continuous service of 231 days in 1985 though in 1986, he had worked only 85 days, according to the respondents. But there is

no documentary evidence to substantiate the statement that there was break in 1986. It is an admitted fact that during 1987, 1988 and 1989, the applicant had again a continuous spells of casual service. Since the applicant was regularised in December, 1990, I am of the view that the applicant's past service between 1985 and 1990 should be reckoned for the purpose of superannuation pension condoning the break, if at all there be any, in 1986 in view of the second respondent's communication A/1 referred to above. The respondents shall also allow age relaxation if required in this case having regard to the special facts stated by the second respondent in A/1. In other words, 50% of the period between 1985 and 1990 wherein it is claimed and shown that the applicant has rendered unbroken service, should be reckoned for such purposes. It is, therefore, appropriate to direct the respondents to calculate half of the period between 1985 and 1990 for the purpose of superannuation pension and the respondents are directed accordingly. Consequential orders granting the applicant pension including arrears by reckoning the services as aforesaid between the period 1985 and 1990, shall be issued within a period of three months from the date of receipt of a copy of this order. However, I do not consider it necessary to order any grant of interest in this case.

7. The Original Application is disposed of as above with no order as to costs.

(Dated, 17th December, 2003)

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

cvr.