

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 129/02

Friday this the 27th day of June 2003.

C O R A M :

HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

M.P.Krishnan Nambisan
S/o Govindan Nambisan
Retired Language Teacher (Hindi),
S.B.School, Minicoy.
Residing at 35, Sukriti,
Harinatha Nagar Colony,
Chervarambilan, Calicut - 17.

Applicant

(By advocate Mr.M.R.Rajendran Nair)

Versus

1. The Administrator
Union Territory of Lakshadweep,
Kavarathi.
2. The Headmaster,
Government High School, Minicoy.
3. Union of India, represented by the
Secretary to Government of India,
Ministry of Home Affairs, New Delhi.
4. Pay and Accounts Officer
Central Pension Accounting Office,
Ministry of Finance,
Trikot II Complex,
New Delhi - 110 066.

Respondents

(By advocate Mr.P.R.Ramachandra Menon)

The application having been heard on 27th June 2003, the
Tribunal on the same day delivered the following:

O R D E R

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

The issue that is raised in this OA is whether the
decision of the respondents rejecting the claim of the applicant
to include the element of Island Special Pay as part of pay for
the purpose of revision of pension is justified. The following
are the reliefs sought :

- I. To quash Annexure A1.

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I(a). Quash Annexure A5 to the extent it does not reckon the element of Island Special Pay for the purpose of pension.

II. To declare that the applicant is entitled to have the Island Special Pay drawn by him reckoned for the purpose of fixation of his pension with effect from 1.12.1996 and to direct the respondents to re-fix the pension and other pensionary benefits of the applicant with effect from 1.12.1996 reckoning the element of Island Special Pay and to disburse the arrears of pensionary benefits together with interest @ 18 percent per annum from the respective due date.

2. The respondents have filed reply statement resisting the applicant's claim. The applicant thereupon filed a rejoinder explaining the circumstances under which the claim is justified.

3. We have considered the pleadings on record and have also heard Shri.M.R.Rajendran Nair, learned counsel for the applicant and Shri.P.R.Ramachandra Menon, learned counsel for the respondents (1-2). When the matter was heard, counsel on either side pointed out that the points at issue required to be remitted to the respondents in the light of the Hon'ble High Court of Kerala's judgement in O.P. No.31953 of 2000 dated 9.4.2003 and connected cases which contains the following findings/directions:

" 1. The petitioner herein was the applicant in O.A.No.1411 of 1997 which was dismissed by the Central Administrative Tribunal, Ernakulam Bench on 28.4.2000. The petitioner challenges the order of the Central Administrative Tribunal dismissing O.A.No.1411 of 1997.

2. During the pendency of this Original Petition, Government of India have issued letter No.U-14025/2/97-ANL(Vol.II) dated 23rd October,2002 to the Secretary (Finance), Union Territory of Lakshadweep clarifying that the order dated 5.7.2002 of the Central Administrative Tribunal, Ernakulam Bench in O.A.No.1038 of 1999 would be effective only in cases which had not been finalised by the date of issue of Ministry's letter dated 28.2.2002 and that the cases already decided by that date would not be re-opened. Mr.Ramachandra Menon appearing for the respondents submits that the petitioner's case can be considered afresh by the first respondent,

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Administrator, Union Territory of Lakshadweep in the light of the above mentioned Government of India letter dated 23.10.2002. We have perused the letter dated 23.10.2002 of the Government of India. We find that the submission made by the learned counsel is just and reasonable. Mr. Rajendran Nair appearing for the petitioner submits that a time limit may be prescribed for such fresh consideration and passing final orders by the first respondent.

3. Hence, the Original Petition is disposed of with a direction that notwithstanding the dismissal of O.A.No.1411 of 1997, the first respondent, Administrator, Union Territory of Lakshadweep shall consider the claim of the petitioner in the light of the above mentioned Government of India letter dated 23.10.2002 and pass final orders within a period of three months from the date of a copy of this judgement.

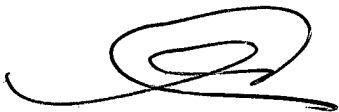
4. On going through the factual and legal position, we find that the issue raised in this OA is exactly the same as the one considered by the Hon'ble High Court. Since a direction has been given to the respondents to reconsider the claim of the petitioner therein, we hold that the matter has to be remitted to the respondents with a direction to reconsider the applicant's claim for inclusion of the Island Special Pay for the purpose of revision of pension in the light of the latest order of the Government of India contained in letter No.U-14025/2/97-ANL(Vol.II) dated 23.10.2002.

5. We therefore direct to the respondents to reconsider the matter as was ordered by the Hon'ble High Court of Kerala in the case cited above, and take appropriate decision. Shri. Rajendran Nair has made a reference to the effect that respondents have already taken steps to recover the alleged excess amount paid to the applicant and that the applicant has escaped the hardship only on account of an interim order. Accordingly, he made a request that till the respondents take a final decision on the matter no recovery shall be permitted. This request being

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reasonable is accepted and we, accordingly, direct the respondents not to effect any recovery until the matter is reconsidered in the light of the direction of the Hon'ble High Court and the Government of India's order dated 23.10.02. The OA is disposed of accordingly. No order as to costs.

(Dated the 27th day of June, 2003)



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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