

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.136/04

Tuesday this the 24th day of February 2004

C O R A M :

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

K.R.Rajan, IAS(Retd.),
Raj Villa, Easwara Iyer Road,
Kochi - 682 035.

Applicant

(By Advocate Mr.Vakkom N Vijayan)

Versus

1. Union of India represented by
the Secretary,
Department of Personnel & Training,
North Block, New Delhi - 110 011.
2. The State of Kerala represented by
the Chief Secretary to Govt.,
General Administration(Special A)Department,
Thiruvananthapuram.
3. The Accountant General (A & E),
Indian Audit & Accounts Department,
P.B.No.560, M.G.Road,
Thiruvananthapuram.

Respondents


(By Advocate Mr.C.B.Sreekumar,ACGSC & Mr.Renjith A,GP)

This application having been heard on 24th February 2004
the Tribunal on the same day delivered the following :

O R D E R

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

The applicant who initially joined service of the State Government as a Demonstrator in Physics at the Govt. Victoria College, Palakkad was later selected and appointed as Lecturer in Physics in the Regional Engineering College, Calicut from 11.7.1963 to 25.6.1967. While serving as a Lecturer he applied for the post of Deputy Collector in the Kerala State Civil Services through the Kerala Public Service Commission and being selected he resigned from the service of the Regional Engineering College on 25.6.1967 and joined the Kerala State Civil Services.




He was conferred with IAS and retired from the Kerala Cadre of the IAS on 31.10.1996. His grievance is that his services between 11.7.1963 to 25.6.1967 with the Regional Engineering College, Calicut, which is an autonomous body, has not been counted as qualifying service for the purpose of pension despite the fact that the Government of Kerala has by order dated 20.11.2001 decided that the period of service rendered by the applicant would be reckoned for his pensionary benefits under Rule 8(2) of the AIS (DCRB) as a special case and despite the fact that the Government of Kerala has requested the 1st respondent to consider the issue of orders treating the said period as qualifying service for pension, if necessary, by relaxing the rules by letter dated 5.9.2002 and reminder dated 14.7.2003 and despite the applicant making the representation dated 17.7.2003. The applicant has therefore filed this application impugning the earlier order dated 1.12.2000 of the 1st respondent rejecting his claim for counting the period as qualifying service for pension and for a direction to the 1st respondent to count the period from 11.7.1963 to 25.6.1967 rendered by the applicant in the Regional Engineering College, Calicut as qualifying service for pension and to revise the terminal benefits.

2. It is alleged in the application that in the case of Shri.A.Mohammed Haneefa service rendered in Ferook College has been treated as qualifying service for pension (Annexure A-11) and in the case of Shri.T.P.Narayanan Kutty, IFS, the service rendered in the Sree Vyasa N.S.S. College, Wadakkancherry has treated as service for the purpose of pension and that in the facts and circumstances the applicant's case requires similar or

more sympathetic consideration.

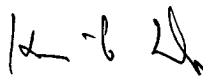
3. We have heard Shri.Vakkom N Vijayan, learned counsel of the applicant and have perused the materials placed on record. We have also heard Shri.Renjith A, State Government Pleader, who appeared for the respondents 2 & 3 and Shri.C.B.Sreekumar,ACGSC, learned counsel of the 1st respondent. Any relaxation of the provision of the All India Services (DCRB) Rules is to be made by the competent authority in the Government of India and not by the State Government. It must be taking note of this that in Annexure A-5 letter of the Chief Secretary to the Accountant General dated 7.2.1998 the Government decision was treated as recalled. However, the applicant has made representation to the 1st respondent and the Government of Kerala also has recommended the relaxation of the provisions contained in the All India Service (DCRB) Rules in the case of the applicant taking note of all the circumstances including his sickness. Since it is a case of relaxation we are of the considered view that appropriate course would be to leave the matter to be decided by the 1st respondent who has the competence to relax. The counsel for the parties also agreed that the application may be disposed of directing the 1st respondent to consider the Annexure A-18 representation of the applicant dated 17.7.2003 taking into account the contents of the DO Letter dated 15.9.2002 of the Chief Secretary to Secretary, Department of Personnel and Training and to issue appropriate orders on the representation within a reasonable time.

4. In the light of above submissions of the learned counsel and in the interests of justice, we dispose of this application



directing the 1st respondent to consider the applicant's representation (Annexure A-18) dated 17.7.2003 keeping in view the contents of the letter of the Chief Secretary to the State of Kerala dated 15.9.2002 (Annexure A-19) and other relevant facts, rules and instructions on the subject and give the applicant an appropriate order within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 24th day of February 2004)



H.P.DAS
ADMINISTRATIVE MEMBER

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A.V.HARIDASAN
VICE CHAIRMAN