

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.138/96

Thursday, this the 11th day of July, 1996.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

PN Pillai,  
Onampallil,  
Harippad Post,  
Kerala-690 514.

- Applicant

By Advocate Mr TC Govindaswamy

VS

1. Union of India through  
the General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.
2. The Divisional Railway Manager,  
South Central Railway,  
Hubli Division, Hubli,  
Karnataka.
3. The Divisional Personnel Officer,  
South Central Railway,  
Hubli Division, Hubli,  
Karnataka.

- Respondents

By Advocate Mrs Mary Nirmala for Mr Thomas Mathew Nellimootttil

The application having been heard on 11.7.96 the Tribunal  
on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a direction to calculate his pension and  
retiral benefits, under the Railway Services(Revised Pay)Rules, 1986.  
His pension and retiral benefits were fixed, under the rules in force  
prior to introduction of the Railway Services(Revised Pay) Rules,  
1986.

2. While working as Station Master, applicant was placed under suspension on 15.3.84, re-instated on 1.2.85 and compulsorily retired on 25.5.85 on culmination of disciplinary proceedings. Against the order of compulsory retirement applicant moved us by O.A.2204/93. We directed that:

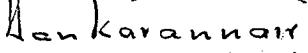
- 1) Applicant be treated as having retired on the date of superannuation(31.10.94),
- 2) the period from 25.5.85 when he was compulsorily retired to the date of his superannuation be deemed as suspension. This period will count for pensionary benefits..
- 3) applicant will not be entitled to any other arrears or benefits such as notional promotion or pay fixation during this period; and
- 4) refixation of pensionary benefits on account of longer qualifying service in terms of the above direction, shall be made and arrears, if any, be paid to applicant within six months.

Pursuant to these directions, his pay and consequently pension were fixed, but in the pre-revised scale. This was presumably because applicant was retired on 25.5.85, prior to the introduction of the 1986 rules. This is clearly wrong. By virtue of our orders his compulsory retirement on 25.5.85 was revoked and his retirement was advanced to 31.10.94. Since he retired on 31.10.94 his pension and retiral benefits have to be calculated, on the basis of the rules in force on the date of the deemed retirement. That will be under the Railway Services(Revised Pay) Rules, 1986. Our view is supported by the decision of the Supreme Court in Anand G Joshi Vs Maharashtra State Financial Corporation and others, 1995 SCC(L&S) 377.

3. We allow the application and direct respondents to refix the retiral benefits due to applicant under the 1986 rules hereinbefore mentioned, and pay the arrears within three months from today. As for his claim for benefits under Paragraph 1345 of the Indian Railway Establishment Code, we direct secnd respondent to pass appropriate orders on A3 and A4 representations, also within three months from today. Application is allowed as aforesaid. Parties will suffer their costs, particulary as the Railways have not contested the claim of applicant, inspite of notice and appearance.

Dated, the 11th July, 1996.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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List of Annexures

1. Annexure-A3: A true copy of the representation dated 2.10.95 submitted by the applicant to the 2nd respondent.
2. Annexure-A4: A true copy of the representation dated 20.9.95 submitted by the applicant to the 2nd respondent.