

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.150/2007

Wednesday this the 28 th day of March 2007

CORAM:

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

Sathiskumar Unnithan J,
S/o late Janardhanan Pillai,
16/1952-C, Peediakkal house,
T & R Cross Road,
Thoppumpady P.O., Kochi-05. Applicant

(By Advocate Shri P.Ramakrishnan)

Vs.

1. The Director of Audit(Navy), Indian Audit & Accounts Department, Admiral's House, No.1, Cooperage Road, Mumbai-400039.
2. The Principal Director of Audit (Air Force/Navy), Indian Audit & Accounts Department, Room No. 107, "M" Block, Church Road, New Delhi – 110002. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 28.3.2007,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicant is a Senior Auditor in the Indian Audit & Accounts Department, Defence Audit, who was suspended from service on 6.11.2003 and finally dismissed w.e.f. 21.8.2006. The applicant made an application vide Annexure A-1 dated 10/12.2.2007 to the Ist respondent for final payment of GPF amount which was rejected by the impugned order (A3) dated 13.2.2007. The applicant had submitted an Appeal against the order of dismissal issued by the departmental authorities. The impugned order(A3) rejecting the payment of

GPF amount was issued on the ground that, the final payment cannot be made till the appeal is disposed of.

2. When the matter came up on 6.3.2007, we had directed the respondents to ascertain the position as to whether the Appeal is still pending or not. Today, on behalf of the Senior Central government Standing Counsel, it is submitted that the instructions are yet to be received and he sought further time .

3. The prayer of the applicant in the O.A. is only to disburse the amount to the applicant's credit in his GPF Account with the eligible interest.

4. Today, learned counsel for the applicant submitted before us that, the pendency of the Appeal should not be a bar in making payment of GPF amount and, if in the event of dismissal not being upheld or any contrary orders are issued, he is preferred to refund the amount. The applicant has also made it clear in the grounds in the O.A. that, the subscription to the fund has been stopped as the applicant was under suspension since November 2003 and that he badly needs money for his son's education and treatment of his ailing mother and he is in financial difficulties.

5. In the circumstance, we consider that there is no rationale for rejection of the applicant's request by the respondents in making final payment of GPF amount due to the applicant which was the contribution made by the applicant himself. They have not cited any instructions/rules which bar such a payment during pendency of appeal. GPF cannot be equated with pension/gratuity amounts from which recoveries can be made to make good the loss to Government if any or as a penalty. The counsel for the applicant has also come forward with his

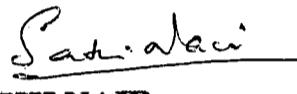
consent to giving an undertaking if necessary that the amount will be refunded if the appeal is disposed of favourably and he is reinstated.

6. Accordingly, we allow this application and direct the respondents to make final payment of GPF amount due to the applicant with interest due, upto the date of payment. This exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

Dated the 28 th March, 2007.



Dr. K. B. S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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