

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 16/2003

CORAM Friday this the 19th day of September, 2003

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

M.C.Kunjan,
Senior Sub Divisional Engineer (Retd)
Mulluvathukalthara,
EdavanakkaduPO
Ernakulam District.
Pin. 682 502.

.....Applicant

(By Advocate Mr. C.S.G.Nair)

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1. Union of India, represented by the Secretary, Ministry of Personnel, Public Grievances and Pension South Block, New Delhi.1.
2. The Secretary, Department of Telecom, Ministry of Communications, New Delhi.
3. Chief General Manager, Bharat Sanchar Nigam Limited, Kerala Circle, Trivandrum.1.
4. The Principal General Manager, Bharat Sanchar Nigam Limited, Ernakulam SSA Kalathiparambu Road, Cochin.16.

...Respondents

(By Advocate Mr.M.Rajendra Kumar, ACGSC)

The application having been heard on 19.9.2003, 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 retired from service as Senior Sub Divisional Engineer of the Central Telegraph Office, Ernakulam on the afternoon of 31.12.1995 was granted the retiral benefits as on 31.12.95 but was not given the

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benefits of the pension as per the revised government orders (A1 and A2) on the ground that he became a pensioner on 31.12.1995. The applicant submitted a representation dated 1.7.02 (A5) claiming that he should be given revised pension and other retiral benefits in terms of Annexure.A1 and A2 with effect from 1.1.1996. This representation was rejected by Annexure.A2. The applicant therefore has filed this application for a declaration that the applicant is eligible to get revised pension and other retiral benefits as per Annexures.A1 and A2 with effect from 1.2.96 and for a direction to the respondents to grant all the retirement benefits like gratuity, computation, arrears of pension etc. as per Annexures.A1 and A2 with effect from 1.1.1996 within a stipulated period.

2. The respondents resist the claim of the applicant on the ground that the applicant having retired from service on 31.12.1995 he is entitled as per rules to receive pension only at the rate applicable on the date of his retirement.

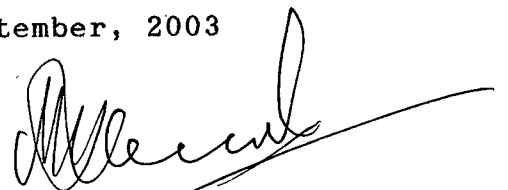
3. I have heard the learned counsel on either side. An identical question as in this case arose in an earlier application (K.J.George and another Vs. Union of India and others(OA 598/02)). Adverting to the relevant rules, the Tribunal held that the applicants who retired on the afternoon of 31.12.1995 should be deemed to have been in service till the midnight of that date and therefore having become a pensioner with effect from 1.1.96 became entitled to be granted the retiral benefits in terms of the orders as on 1.1.1996. Dissatisfied by the decision the respondents

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carried the matter before the Hon'ble High Court of Kerala filing Writ Petition No.18705/03. The Hon'ble High Court vide its order dated 5.8.03 after a survey of the relevant pension rules, circulars etc. held that the Government servants who retired on 31.12.1995 having become a pensioner only with effect from 1.1.1996 pensionary benefits of such government servants (retirees) have to be calculated and paid in accordance with the Circular dated 27.10.1997. I find no reason to take a different view in the matter and further the decision of the Hon'ble High Court of Kerala on the identical issue is binding on the Tribunal.

4. In the light of what is stated above, the application is allowed declaring that the applicant is eligible for revised pension and other retiral benefits as per Annexures A1 and A2 with effect from 1.1.1996. I direct the respondents to grant all the retiral benefits like gratuity, commutation, arrears of pension etc. as per Annexures.A1 and A2 with effect from 1.1.1996 within a period of two months from the date of receipt of a copy of this order. No costs.

Dated this the 19th day of September, 2003



A.V. HARIDASAN
VICE CHAIRMAN

(s)