

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 165 of 1996

Thursday, this the 12th day of June, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. P.J. Janardhana Menon,
S/o K. Narayana Menon,
residing at Flat No. 227, Fifth Street,
Nehru Nagar, Kuriachira, Trichur.
(Retired Judicial Member,
Income Tax Appellate Tribunal) .. Applicant

By Advocate Mr. MR Rajendran Nair

Versus

1. Union of India represented by
Secretary to Government of India,
Department of Legal Affairs,
Ministry of Law and Justice,
Shastri Bhavan, New Delhi-11

2. The Pay and Accounts Officer,
Department of Legal Affairs,
Indian Oil Bhavan, New Delhi. .. Respondents

By Advocate Mr. Mathews J Nedumpara, ACGSC

The application having been heard on 12.6.1997,
the Tribunal on the same day delivered the
following:

O R D E R

The applicant, aggrieved by the delay in granting
the pension due to him, seeks for a direction to the
respondents to pay interest at 18 per cent from 1.3.1986
to 1.8.1994.

2. Applicant while working as Judicial Member of
Income Tax Appellate Tribunal, Ahmedabad in the year
1980 was deputed as Legal Consultant to Government of

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Guyana on an assignment by Commonwealth Secretariat as per A-1 order dated 4.12.1980. His deputation period was extended till 2.1.1986 as per A-2 order. According to the applicant, he sought voluntary retirement in the year 1986 and the respondents accepted the same only in the year 1992. According to the respondents, the applicant was not entitled to seek for voluntary retirement while he was on deputation as Legal Consultant to Government of Guyana and he could seek it only after serving for a period of one year in India after expiry of the period of deputation as per the rules in force. Respondents say that they showed some indulgence in the case of the applicant and relaxing the relevant rules, the applicant was permitted to retire voluntarily with effect from 3.1.1986.

3. According to applicant, it is not a case of any indulgence being shown to him by the respondents and there was no question of relaxation and in fact no relaxation was granted to him, but it was only the case of late understanding of the correct position by the respondents.

4. Respondents have specifically stated in the reply statement that disciplinary proceedings were initiated against the applicant for his unauthorised absence and charge-sheet was issued to him on 7th of September, 1988. Subsequently, the disciplinary proceedings initiated against him were dropped after having allowed the applicant to avail the voluntary retirement provision and the pendency of the disciplinary proceedings was

also one of the reasons for the delay in granting pension to the applicant.

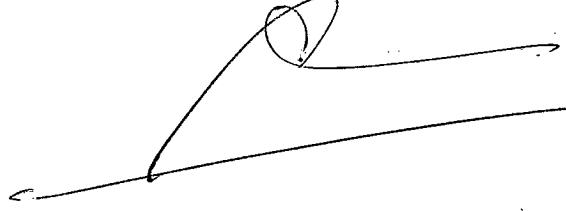
5. The acceptance of voluntary retirement request made by the applicant and the disciplinary proceedings initiated against him and serving a charge memo on him on the 7th of September, 1988 on the ground of unauthorised absence from duty are inextricably intervoven like Siamese twins. The fact that the disciplinary proceedings were initiated against the applicant and he was served with a charge memo on the 7th of September, 1988 on the ground of unauthorised absence was admitted by the applicant's counsel across the Bar. Initiation of disciplinary proceedings is a material fact having bearing in the matter of granting pension. As already stated, the reason for the delay is attributed by the respondents on the ground of disciplinary proceedings also.

6. As disciplinary proceedings were initiated against the applicant and the same was pending till 1992, that is the material fact affecting the grant of pension. That being so, the applicant should have stated that material fact in the OA. There is not even a whisper in the OA with regard to the disciplinary proceedings initiated by the respondents against the applicant and pending during the relevant period. A party who approaches the Tribunal should necessarily come with clean hands. He who suppresses any material fact within his knowledge or misleads the Court, should necessarily face and suffer the consequence. The consequence is that the OA will be dismissed by the Tribunal. As the fact of existence

of disciplinary proceedings, a ground for the delay in granting pension to the applicant was well within the knowledge of the applicant and that fact having been suppressed and having attempted to mislead the Tribunal, the OA is liable to be dismissed at the threshold on the ground alone.

7. Accordingly, the original application is dismissed. No costs.

Dated the 12th of June, 1997



A.M. SIVADAS
JUDICIAL MEMBER

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