

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 167/99

Friday, this the 10th day of December, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

K.V.R. Nambiar,  
S/o.Late K.V.G. Nambiar,  
Padmalaya, Koodali P.O.,  
Kannur.

..Applicant

By Advocate Mrs. N. Sobha (Absent)

Vs.

1. Union of India represented by the Secretary to Government of India, Ministry of Human Resources Development, Department of Youth Affairs & Sports, Shasthri Bhavan, New Delhi - 110 001.

..Respondent

By Advocate Mr. Govindh K. Bharathan, SCGSC

The application having been heard on 10.12.99, the Tribunal on the same day delivered the following:

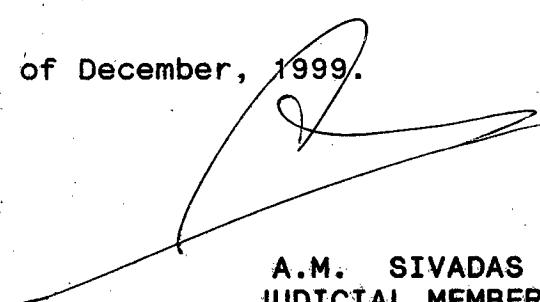
ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

None for the applicant.

2. The Original Application is dismissed.

Dated this the 10th day of December, 1999.

  
A.M. SIVADAS  
JUDICIAL MEMBER

nv/101299

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 167 of 1999

Tuesday, this the 20th day of June, 2000

CORAM

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

1. K.V.R. Nambiar,  
S/o late K.V.G. Nambiar,  
Padmalaya,  
Koodali PO, Kannur. ....Applicant

By Advocate Mr. Anil Thomas

Versus

1. Union of India represented by  
Secretary to Government of India,  
Ministry of Human Resources Development,  
Department of Youth Affairs & Sports,  
Shastri Bhavan, New Delhi-110001. ....Respondent

By Advocate Mr. Govindh K. Bharathan, SCGSC

The application having been heard on 20th of June 2000,  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to direct the respondent to calculate the pension on the basis of the service details available and to disburse the pension along with arrears till date including interest at 18% on the arrears.

2. The applicant says that he joined the service under the respondent on 22-6-1962 and continued till 22-12-1979. Due to certain personal problems he sought voluntary retirement and the same was granted. He has put in 17 1/2 years of continuous service and in an identical matter the Apex Court has passed an order granting pension to the party concerned.

...2.



3. Respondents resist the OA contending that the applicant had not sought voluntary retirement but was compulsorily retired from Government service based on the outcome of the Departmental inquiry conducted under Rule 14 of CCS (CCA) Rules, 1965. Since the applicant retired compulsorily from service, he is not eligible for any type of pension under the CCS (CCA) Rules, 1965. He is also not eligible for gratuity. The judgment of the Apex Court referred to by the applicant does not apply to the case at hand. The applicant has misled the Tribunal by hiding the vital facts. As per letter No. A-22013/11/74 YS.III (SSY) dated 29-11-1985, the request of the applicant for pensionery and retirement benefits was turned down.

4. In para 4(III) of the OA, it is stated thus:

"Because of certain personal problems arising out of disgruntlement in the department the applicant sought for voluntary retirement. The same was granted. ..."

5. In A2 dated 12th of January, 1996, the applicant has specifically admitted thus:

"I was compulsarilly retired from service with effect from 28-12-1979."

6. R1A, the order dated 28th of December, 1979, says that the applicant was compulsorily retired from service with immediate effect.

7. This only shows that the applicant has got scanty respect for truth. It is needless to say that a party who approaches the Tribunal should come forward with clean hands. A party who suppresses material facts or states facts in a twisted fashion to suit his convenience which he very well knows to be false, can only to be said to have approached this

Tribunal with unclean hands. The intention of the applicant seems to mislead the Tribunal. He, who suppresses material facts well within his knowledge and attempts to mislead the Tribunal, should necessarily face and suffer the consequence. The consequence is dismissal of the OA.

8. In para 4(VII) of the OA, it is stated thus:

"... A1 was issued when the Supreme Court had passed an order in a very identical case arising in an identical manner of a colleague of applicant namely Y.H. Katakker. ..."

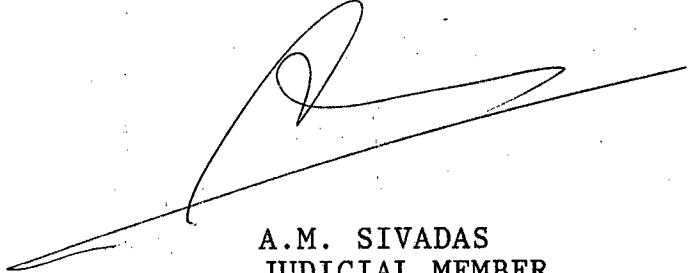
The order of the Supreme Court is produced as A3. In the opening sentence in the order it is stated that the appellant sought premature retirement from Government service. It is further stated therein that the Union of India granted premature retirement to the appellant. So, it is clear that the appellant Katakker was granted premature retirement by the Union of India. Whereas, in this case, the applicant was awarded a punishment of compulsory retirement from service. How Katakker's case is identical to the case of the applicant is something very difficult to understand.

9. The reliefs sought for by the applicant in this OA are to direct the respondent to calculate the pension on the basis of the service details available and to disburse the same to him with arrears including interest. There is no prayer for a declaration to the effect that the applicant is entitled to pension. In the absence of a declaration that the applicant is entitled to pension, there cannot be a direction to fix the pension of the applicant and to disburse the same to him.

10. R1C dated 29th of November, 1985 clearly says that the Prime Minister of India on the request for pensionary and retirement benefits has found it not possible to accede to the applicant's request. So, from R1C it is clear that the applicant has made a request to the Prime Minister of India for grant of pensionary and retirement benefits and the same was turned down. The applicant has not challenged the same. That being so, the position is that he has no grievance against the refusal to grant him pensionary and other retirement benefits. As long as R1C is not under challenge and is not set aside, the applicant is not entitled to the reliefs claimed for.

11. Accordingly, the Original Application is dismissed. No costs.

Tuesday, this the 20th day of June, 2000



A.M. SIVADAS  
JUDICIAL MEMBER

ak.

List of Annexures referred to in this Order:

1. A2 - True copy of the letter dated 12-1-96 sent by the applicant to the Section Officer, Ministry of Human Resources.
2. A3 - True copy of the order dated 19-9-94 in SLP No. 6365/1988 of the Supreme Court of India.
3. R1A - True photo copy of the order No. 13013/11/74/SY-1 dated 28-12-79.
4. R1C - True photo copy of the letter No. 22013/11/74/SY dated 29-11-1985.