

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 176 OF 2011

Wednesday, this the 14th day of March, 2012

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

P.V.Kallyani

Patteri House, PO Kandangali

Payyannur, Kannur District – 670 307

Applicant

(By Advocate Mr. M.V.Amaresan)

versus

1. Union of India represented by its Secretary
Ministry of Communication & Information Technology
Department of Telecommunications
421 Sanchar Bhavan, 20 Ashoka Road
New Delhi – 110 001

2. General Manager
Telecom BSNL, Kannur – 670 332

3. The Chief General Manager
Office of the Chief General manger
Kerala Telecommunications
Thiruvananthapuram – 695 033

4. The Controller of Communication Accounts,
Department of Telecommunication
Thiruvananthapuram

Respondents

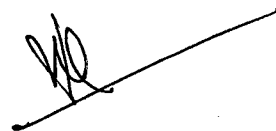
(By Advocate Mr. Millu Dandapani (R-1)
Advocate Mr.Johnson Gomez (R2-3))

The application having been heard on 14.03.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant Kallyani, is the wife of one Sivadasan. Her husband is not heard of since 22.03.1984. Hence there arises a presumption of death under Section 108 of the Evidence Act when the



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person is not heard for more than 8 years by the person who would have knowledge about him had he been alive. Therefore, in this case based on the normal presumption that he is dead, the wife applied for family pension from the erstwhile employer from the BSNL, whose service was transferred as a result of taking over of the Department of Telecommunications by the BSNL. At the relevant time, the applicant was working in the Telecommunication Department. After coming into existence of BSNL on 01.10.2000, all the employees were transferred to BSNL. Therefore all the legal benefits due to the applicant should be paid by the BSNL. The grievance of the applicant is that despite representation being made in this behalf no family pension is paid to the applicant. The learned counsel for the Department of Telecommunications in his reply points out that in such situation, Rule 54 of CCS (Pension) Rules, 1972 read with the decision No.9 of the Department, the family must lodge a complaint to the Police and if the person is not traced a certificate is to be obtained in proof of registering a complaint and an Indemnity Bond has also to be executed.

2. The Standing Counsel on behalf of BSNL submits that if a proper representation is made enclosing the certificate and the Indemnity Bond as aforesaid, the claim of the applicant will be considered in accordance with law.

3. Even the counsel for applicant submitted that a certificate was issued by the Circle Inspector of Police, Payyannur as contemplated it is for him to produce the same before the concerned authority. Hence if a representation is made to the 2nd respondent enclosing the copy of the

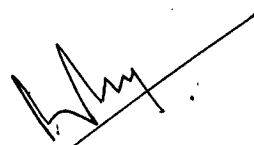


certificate issued by the Circle Inspector of Police, Payyannur stating that her husband is missing since 22.03.1984 and a case has been registered in Payyanur Police Station and on investigation the missing person could not be traced and the final report has been submitted to the Judicial First Class Magistrate Court and also the Indemnity Bond as prescribed in Annexure R-2 (c) produced in the case, the appropriate authority shall consider the claim of the applicant and disburse the family pension due and payable to the applicant in accordance with law . Applicant shall make a representation along with a copy of the certificate of the Circle Inspector of Police, Payyanur as well as the Indemnity Bond within a period of three weeks to the 2nd respondent where upon the 2nd respondent shall deal with the same and dispose of the claim as expeditiously as possible at any rate, within three months from the date of receipt of a copy of this order.

4. Counsel for applicant seeks permission to withdraw the 1st prayer for compassionate appointment reserving his right to approach the appropriate authority by making a representation in that behalf. This question is left open.

5. OA is **disposed of** as above. No costs.

Dated, the 14th March, 2012.



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS