

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

**O.A. NO. 176 OF 2011**

Wednesday, this the 14<sup>th</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> respondent where upon the 2<sup>nd</sup> 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 1<sup>st</sup> 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 14<sup>th</sup> March, 2012.



JUSTICE P.R.RAMAN  
JUDICIAL MEMBER

vs