

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 185/93

Friday, the twelfth day of November, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

K. Ammu

w/o T.K. Shreenivasa Gopal

Scientist, Central Institute of Fisheries
& Technology, Kochi

Applicant

By Mr. P.V. Mohanan

vs.

1. The President, I.C.A.R.
Krishi Bhavan, New Delhi

2. The Secretary, I.C.A.R.
Krishi Bhavan, New Delhi

3. The Director,
Central Institute of Fisheries &
Technology, Kochi-29

Respondents

By Mr. P. Jacob Varghese

Order

N. DHARMADAN

In the light of Annexure R-2 passed by the Govt. considering the grievance of the applicant, we are of the view that the application can be disposed of with appropriate direction.

2. The only question that^{is} raised by the applicant, is to count the previous service of the applicant in the Defence Food Research Laboratory, Ministry of Defence for a period of 6 years 2 months and 20 days along with the present service of the applicant in the ICAR for pensionary benefits.

3. According to the applicant while working in the DFRL, she applied for the examination ARS in the ICAR through proper channel. Later she^{offer to} resigned^{to} from the Laboratory, which was accepted by the DFRL with the following communication:

"The resignation tendered by Mrs. K. Ammu, QP SSA has been accepted by the Director, DFRL, Mysore, w.e.f. 24.4.78 and S.O.S. of this Laboratory w.e.f. 26.3.78 has been treated as extra ordinary leave without pay. The applicant had completed 6 years 2 months and 20 days of service in Defence Department (from 1.1.72 to 24.4.78). The applicant was entitled for terminal gratuity and DCRG on account of her service in the Defence Department."

4. In the light of the acceptance of resignation the applicant submitted that her past service in the Defence Ministry should be counted along with her service in the ICAR after condoning the break from 25.4.78 to 22.8.78. According to the learned counsel for applicant, the question whether the short break can be condoned in the interest of justice was not considered by any of the authorities. Hence, she has filed this application under section 19 of the Administrative Tribunals Act for a direction to the respondents to condone the break of four months period from 25.4.78 to 22.8.78 for the purpose of qualifying service for computation of pensionary benefits.

5. It appears that before filing of the original application, considering her representation, Annexure R-2 order was passed by the Government. It reads as follows:

"The representation of Smt. K. Ammu has been carefully considered in the Council in consultation with Department of Pension and Public Welfare. The Department of Pension and P.W. is of the view that Smt. K. Ammu resigned from the Defence Food Research Laboratory on 17.4.78 on personal grounds and later joined Agricultural Research Service on 23.8.78. Therefore, it cannot be said that she resigned her earlier service to join the ARS even though she might have applied to sit in the examination through proper channel. She had also submitted her resignation to avoid any disciplinary action for unauthorised absence. Under these circumstances, the case of Smt. K. Ammu cannot be considered as a fit case for invoking the provision of Rule 88 of the CCS (Pension) Rules 1972."

6. The learned counsel for applicant submitted that the Government has not served a copy of the order to the applicant so as to take appropriate steps. She also proposes to file a detailed representation before the first respondent for condoning the break in service in the light of the facts stated by the Govt. in Annexure R-2 and the findings in this O.A.

7. In the light of the submission made by the learned counsel for applicant, we are satisfied that it is not necessary for us to go into the merits of the case and it can be disposed of with appropriate direction.

8. If the applicant proposes to take appropriate steps against Annexure R-2, we reserve that freedom. With the above observation, the original application is closed.

9. There shall be no order as to costs.

S. Kasian

(S. KASIAN DIAN)
MEMBER (ADMINISTRATION)

N. Dharmadan
12.11.93.

(N. DHARMADAN)
MEMBER (JUDICIAL)

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