

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.190/2004.

Monday, this the 28th day of February, 2005.

CORAM:

HON'BLE MR. KV.SACHIDANANDAN, JUDICIAL MEMBER

N. Vasu, Retired Tindal I,
B.R.I.Section, Southern Railway residing at
Kummancherry House, Pulliparamba P.O.,
Chellambra, Malappuram Dt. Applicant's

(By Advocate Shri R.K.Venu Nayar)

VS

1. Union of India, represented by the General Manager, Southern Railway, Chennai.
 2. Senior Divisional Personnel Manager, Southern Railway, Palakkad.
 3. Chief Bridge Inspector, Southern Railway, Cannanore. Respondents.

(By Advocate Shri P. Haridas)

The application having been heard on 28.2.2005, the Tribunal on the same day delivered the following:

ORDER (Oral)

HON'BLE MR. KV SACHIDANANDAN, JUDICIAL MEMBER

The applicant was joined the service of southern Railway as Mapla Khalasi in 1978 and given temporary status in 1983 and continued in service till 31.7.1996 and retired on attainment of superannuation. He was promoted as Tindal H.S.I . and not given any pension. Aggrieved by the said inaction on the part of the respondents the applicant has filed this O.A. Seeking the following reliefs:

1. To direct the respondents to order payment of pension and related benefits to the applicant on the ground of his continuous qualifying service under the Railways.
 2. To grant the benefit of pension from the date of retirement, since denial of pensionary benefits is illegal.

- 3, To order commutation of pension as per law applicable to railway employees.
2. The respondents have filed a reply statement contending that the applicant is not entitled for any pensionary benefits in view of the decision of D.S.Nakara Vs. Union of India (AIR 1983 SC 130). According to the respondents a dictum has been formulated that, those who retired on or after 31.3.1979 are covered by 1972 rules and in respect of defence personnel those who became/become non-effective on or after April, 1979 or whether those who retired prior to the specified date would also be entitled to the benefits of the liberalised pension formula. It is also submitted that the judgment that is being relied on by the applicant in O.P.3335/98 of the Hon'ble High Court, has already, been taken in appeal before the Hon'ble Supreme Court and the same is numbered as SLP No.1548/2004. This Tribunal while dismissing the O.A.175/94 and 178/94 vide order dated 11.7.94 held that the benefits flowing from judgment will ensure only to the parties therein. Therefore, the applicant is not entitled to the benefit.
3. When the matter came up before the Bench Shri R.K.Venu Nayar, learned counsel appeared for the applicant and Shri P.Haridas learned counsel appeared for the respondents. Counsel also submits that, the relief granted by the court following the dictum laid down in a case, is only applicable to the parties therein, is not correct. Learned counsel for applicant submitted that the applicant has made a representation dated 22.9.2003(A6) which is pending before the 2nd respondent and the applicant would be satisfied if a limited direction is given to the 2nd respondent to consider and dispose of the same as per rules. This Court is also of the view that it will meet the ends of justice.
4. Therefore this Court directs the 2nd respondent to consider and dispose of A-6 representation made by the applicant with reference to rules and regulations on the subject and case laws and dispose of the same within a period of three months from the date of receipt of a copy of this order. Applicant is directed to send a copy of the O.A. to

the 2nd respondent forthwith.

5. O.A. is disposed of at the admission stage itself. In the circumstance no order as to costs.

Dated the 28th February 2005.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

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