

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 192 of 2009

Tuesday, this the 5th day of January, 2010

CORAM:

Hon'ble Mr. George Paracken, Judicial Member

Hon'ble Mr. K. George Joseph, Administrative Member

K.K. Krishnankutty, S/o. the late Kandothi, aged 62 years, Deputy Superintendent of Post Offices (Retd.), Office of the Senior Superintendent of Post Offices, Ernakulam Division, residing at Pallyathukudy House, Vadavucode P.O. - 682 310, Ernakulam District. **Applicant**

**(By Advocate – Mr. O.V. Radhakrishnan, Sr.
 Mrs. K. Radhamani Amma)**

V e r s u s

1. Director General & Secretary, Department of Posts,
 Dak Bhavan, Sansad Marg, New Delhi - 110 001.

2. Chief Postmaster General, Kerala Circle,
 Thiruvananthapuram - 695 033.

3. Postmaster General, Central Region, Kochi-682 018.

4. Director of Accounts (Postal),
 Kerala Circle, Thiruvananthapuram - 695 001.

5. Union of India, represented by its Secretary, Ministry of
 Communications, New Delhi - 110 001. **Respondents**

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 05.01.2010, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. George Paracken, Judicial Member -

The applicant while working as Deputy Superintendent of Post Offices, Ernakulam Division was placed under deemed suspension with



effect from 30.4.2004 in connection with a criminal case vide order dated 22.6.2004. He retired from service on superannuation on 31.1.2007 while under suspension. Later on, the Court of District and Sessions Court, Ernakulam acquitted him in the Sessions case No. 388 of 2006 under Section 498-A and 304-B read with Section 34 of IPC vide judgment dated 23.10.2007.

2. The applicant has filed the present OA seeking a declaration that the period of suspension from 30.4.2004 to 31.1.2007 (1006 days) be treated as spent on duty for all purposes in view of his honourable acquittal as per the judgment of the District & Sessions Court, Ernakulam on 23.10.2007 and he is entitled for full pay and allowances for the period of suspension. He has also sought a direction to the respondents to pay him interest of 12% on arrears of retirement gratuity, pay and allowances and pension from the date of his retirement to the date of actual payment.

3. The respondents have filed reply enclosing with Annexure R-1 order dated 19.8.2009. Vide this order, under FR 54 (B) the applicant was sanctioned full pay and allowances to which he was entitled had he not been suspended and that the period of suspension from 30.4.2004 to 31.1.2007 shall be treated as period spent on duty for all purposes. However, as regards the interest is concerned they have stated in the reply that the question of payment of 12% interest on delayed payments of pension, gratuity, etc. would however, be decided by the concerned establishment division of directorate, dealing with matters of pension and the matter has

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been referred to the said section and a decision will be taken shortly. Thus, in the instant case the respondents have to arrive at a decision after considering the judgment following necessary administrative procedure and the time taken for carrying out this process cannot be considered as delay.

4. We have heard learned counsel for the parties. In view of the Annexure R-1 order passed under FR 54(B) sanctioning full pay and allowances to the applicant for the period of suspension this OA has become partly infructuous. The only question that survives is the payment of interest on retirement gratuity and other service benefits from the date of his retirement to the date of actual payment. Learned counsel for the applicant submitted that though he is not insisting for any interest on the arrears of pay and allowances, but the respondents are statutorily required to pay interest on retirement gratuity. It is noticed that the applicant had retired from service on superannuation on 31.1.2007 when the criminal case was pending against him. The Court of District and Sessions Court acquitted him from the criminal case only on 23.10.2007. It was only thereafter, the respondents could consider the case of the applicant for payment of salary and allowances for the period he was entitled. As conceded by the applicant's counsel himself there was no question of any interest payable to him for the pay and allowances which has now been sanctioned to him vide the Annexure R-1 order dated 19.8.2009. The applicant has also been getting provisional pension from 1.2.2007 which was equivalent to the regular pension itself. The applicant's counsel has submitted that after the Annexure R-1 order dated 19.8.2009 the pension has also been regularized.



Hence, there was no question of delay in payment of pension and consequent interest thereon. The only question we consider is whether the applicant is entitled for interest on the DCRG. It is seen that the District & Sessions Court has acquitted him on 23rd October, 2007. The respondents should have considered his case for payment of full pay and allowances under FR-54 (B) immediately after the acquittal order. However, Annexure R-1 is passed only on 19th August, 2009. In our considered opinion there was considerable delay in passing the Annexure R-1 order. As the applicant was acquitted from the criminal case from 23.10.2007, after allowing six months time for processing the case, the respondents should have cleared his retirement benefits by at least April, 2008. We, therefore, consider it appropriate that the respondents shall pay interest @ 8% per annum on retirement gratuity from 1st May, 2008 till the date of its actual payment. Learned counsel for the applicant has also submitted that the applicant's leave en-cashment has also not been made so far. If that is so, the 2nd respondent shall ensure that the leave en-cashment shall also be made to the applicant within a period of 2 months from the date of receipt of a copy of this order.

5. With this direction the OA is disposed of. No costs.


 (K. GEORGE JOSEPH)
 ADMINISTRATIVE MEMBER

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 (GEORGE PARACKEN)
 JUDICIAL MEMBER