

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.204/2003.

Friday this the 28th day of November 2003.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

S.Subbuswamy,
Assistant Provident Fund Commissioner (Rtd.),
SRA 57, Sangama Nagar,
Sri Chitra Quarters lane,
Poonthi Road, Trivandrum-31. Applicant

(By Advocate Shri C.S.G.Nair)

Vs.

1. Union of India, represented by the
Secretary, Ministry of Labour,
New Delhi-110 001.
2. Central Board of Trustees,
Employees Provident Fund,
New Delhi, represented by its Chairman.
3. Central Provident Fund Commissioner,
New Delhi-66.
4. Regional Provident Fund Commissioner I,
Pattom, Trivandrum-4. Respondents

(By Advocate Shri George Joseph)

The application having been heard on 28.11.2003, the
Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant an Ex-Assistant Provident Fund Commissioner retired on superannuation on 31.12.95. His grievance is that although he has been given pension in accordance with the instructions contained in the Government of India, Department of Pension & Pensioners Welfare O.M.No.F.45/86/97-P & P.W.(A) Part-I dated 27.10.1997(A1), he has not been granted DCRG and Commutation value according to the pension then fixed as per A-2. The applicant submitted A-7 representation dated 10.6.2002 to the Central Provident Fund Commissioner requesting that he should be

given all the terminal benefits stating that his effected date of retirement is 1.1.1996. Finding no response the applicant has filed this Original Application for a declaration that he is eligible to get DCRG, Commutation value of pension etc. in terms of the orders A1, A2 and A4 with effect from 1.1.96 on par with other Central Government Pensioners and for a direction to the respondents to grant 40% of the revised pension of Rs.4,000/towards commutation value after deducting the amount already paid and to grant him gratuity on the basis of the notional pay fixed as per Annexure A4.

2. The respondents have in their reply statement resisted the claim of the applicant on the ground that the applicant having retired on 31.12.95, he is not entitled for all the terminal benefits accordingly.

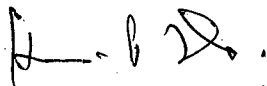
3. We have heard the learned counsel on either side and also perused the material on record. An identical issue as in this case was considered by this Bench of the Tribunal in O.A.16/2003 titled in M.C.Kunjan Vs. Union of India and others. Following the decision of the Tribunal in K.J.George and another Vs. Union of India and others (O.A.598/02) wherein it was held that persons who retired on the afternoon of 31.12.1995 should be deemed to have been in service till the midnight of that date and therefore having become a pensioner with effect from 1.1.96 should be entitled to the retiral benefits in terms of the orders as on 1.1.1996. The above order which was upheld by the Hon'ble High Court of Kerala in Writ Petition No.18705/03, this Bench held that the applicant in that case was entitled to have the terminal benefits like gratuity, commutation, arrears of pension etc. fixed with effect from 1.1.1996. The issue involved in this case is exactly identical. As the applicant's pension was fixed at



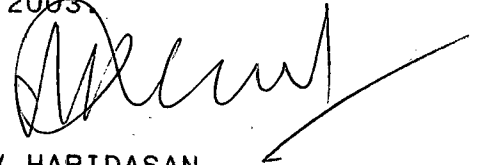
Rs.4,000/- by A-2 we do not find any reason for not giving the applicant the other terminal benefits and commutation of pension to the extent of 40% as also the gratuity as applicable from 1.1.96.

4. We, therefore, allow this application and direct the respondents to revise the commuted value of pension of the applicant as per rules as on 1.1.1996 deeming that the applicant effectively retired and became a pensioner on that date, to make available to him the balance of commutation value after adjusting the commutation value already paid and to pay to the applicant the gratuity accordingly. The orders regarding the revised terminal benefits shall be issued and consequential monetary benefits made available to the applicant within a period of two months from the date of receipt of a copy of this order. No order as to costs.

Dated the 28th November, 2003



H.P.DAS
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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