

CENTRAL ADMINISTRATIVE TRIBUNAL
ENAKULKAM BENCH

O.A.NO. 207 OF 2002

TUESDAY THIS THE 2ND DAY OF APRIL, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

K.V.Kunhunni Menon
S/o late Sri K.U.Karunakara Menon
aged 78 years
(retd. IAS Officer)
residing at 3-C, Bay View Apartments,
Princes Street,
Fort Kochi, Ernakulam.Applicant

(By Advocate Mr. M.R.Rajendran Nair/By Mr.Hariraj)

v.

1. Union of India, represented by
the Secretary to Government of
India, Ministry of Personnel, Public
Grievances and Pension,
Department of Personnel & Training,
New Delhi.
2. State of Kerala, represented by its
Chief Secretary to Government,
of Kerala, Secretariat,
Trivandrum.Respondents

(By Advocate Mr. C. Rajendran, SCGSC-For R-1)

Mr. Renjit.A, GP-For R-2

The application having been heard on 2.4.2002, the Tribunal
on the same day delivered the following:

ORDER

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

The applicant a non-State Civil Service Officer was
appointed to the Kerala Cadre of the Indian Administrative
Service by selection in the year 1978. By Annexure.A2 order
dated 21.12.79 he was given 1973 as the year of allotment
reckoning the service rendered by him as Additional
Secretary. One Shri Philipose Thomas who was placed below

the applicant in the list was given the same year of allotment. Claiming that he was entitled to an earlier year of allotment reckoning the service rendered by him as Under Secretary and higher since 1960, the applicant submitted a representation (Annexure A3). The representation was turned down by order dated 18.3.80 (A4). The applicant did not agitate the issue thereafter. He continued in service and retired in March, 1982. Finding that the applications filed by T.M.Thomas and K.V.Harikrishnan Nair for earlier year of allotment reckoning the service on the post of Under Secretary and above ~~were~~ allowed and they were given earlier years of allotment and that Shri Philipose Thomas who was junior to the applicant was also on the basis of an order of the Tribunal given a revision of the year of allotment by order dated 16.2.90, the applicant submitted a representation on 27.3.2001 (A8) claiming revision of the year of his allotment. Finding no response to this, he made reminders which were forwarded by the State of Kerala to the first respondent. Unfortunately the applicant has now been served with the impugned order dated 22.2.2002 turning down his request for revision of year of allotment on the ground that the revision of year of allotment in the case of Philipose Thomas in year 1990 was on the basis of an order of the Tribunal while he was in service, that as the applicant's claim for revision of year of allotment was rejected in the year 1980, and that his claim now at this distance of time could not be acceded to. Aggrieved by this order the applicant has filed this application under Section



19 of the Administrative Tribunals Act seeking to set aside Annexure.A1 order and for a declaration that the applicant is entitled to have his year of allotment preponed as in the case of his juniors in accordance with the law laid down by the Tribunal in its orders in OA 851 and 852 of 1986 with consequential benefits. It is alleged in the application that the respondents have even without approaching the Tribunal given a revised earlier year of allotment to one Smt.Radhalakshmi by order dated 6.2.90 (A7) and that in fairness the respondents should have granted the applicant also the similar benefit as the applicant was senior to even Shri Philipose Thomas. The learned counsel of the respondents argued that in view of the fact that the claim of the applicant for revised year of allotment was rejected by order dated 26.3.80 (Annexure.A4) this application is barred by limitation.

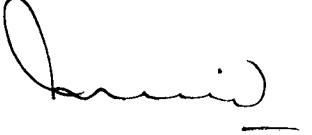
3. We find sufficient force in the contention of the respondents' counsel. If the applicant was aggrieved by Annexure.A4 order he should have sought relief before appropriate forum immediately challenging that order. His right to challenge that order and seek revision of year of allotment got barred by limitation. The claim of the applicant for revision of allotment two decades after his retirement is too stale to be entertained. That Philipose Thomas and others junior to the applicant got revised year of allotment reckoning their services as Under Secretaries on the basis of orders in OAs filed by them does not give

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rise to a fresh cause of action to the applicant. They were vigilant of their rights. When their rights were denied, they approached the Tribunal. The applicant who did not do so has no right to enforce a claim by filing an application. That in the case of Smt. Radhalakshmi, the respondents on her representation gave her the benefit also does not give rise to an enforceable cause of action to the applicant. In all these cases the benefit of revision of year of allotment was given to those who claimed the same while they were in service. The applicant is claiming it two decades after his retirement after his claim has been hopelessly barred by limitation.

4. In the light of what is stated above, finding that there is no subsisting cause of action, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 2nd day of April, 2002



T.N.T. NAYAR

ADMINISTRATIVE MEMBER



A.V. HARIDASAN

VICE CHAIRMAN

(s)

A P P E N D I X

Applicant's Annexures:

1. A-1: Letter No.14014-23/2001-AIS(I) dated 22.2.2002 issued for the 1st respondent.
2. A-2: Letter No.14014/42/78. AIS(I) dated 21.12.1979 issued for the 1st respondent.
3. A-3: True copy of the representation dated 18.1.1980 submitted by the applicant to the 1st respondent.
4. A-4: True copy of the letter number 14014/14/80-AIS(I) dated 18-3-1980 issued for the 1st respondent.
5. A-5: True copy of the final order dated 5.6.1987 in OA 851/1986 and connected cases on the files of the Madras Bench of this Hon'ble Tribunal.
6. A-6: True copy of the order No.14014/37/88-AIS (I) dated 16.2.1990 issued for the 1st respondent.
7. A-7: True copy of the wireless message No.14014/64/86-AIS(I) dated 6.2.1990 issued for the 1st respondent.
8. A-8: True copy of the representation dated 27.3.2001 submitted by the applicant to the 1st respondent.
9. A-9: True copy of the representation dated 15.11.2001 submitted by the applicant to the 1st respondent.
10. A-10: True copy of the letter bearing No.82553/Sp1.A1/2001/GAD dated 27.11.2001 issued for the 2nd respondent.
11. A-11: True copy of the letter bearing No.82553/Sp1.A1/2001/GAD 30.11.2001 issued for the 2nd respondent.

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