

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.209/11

Thursday this the 18th day of October 2012

C O R A M :

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

A.T.Jose, IPS,
Superintendent of Police (Retd.),
Peace Lane, S.R.M.Road,
Pachalam P.O., Cochin – 682 012.

...Applicant

(By Advocate Mr.George Jacob [Jose])

V e r s u s

1. State of Kerala represented by the Secretary,
Home & Vigilance Department, Government Secretariat,
Thiruvananthapuram – 1.
2. The Chief Secretary, Government of Kerala,
Secretariat, Thiruvananthapuram – 1.
3. The Principal Secretary to Government,
General Administration (Spl.A) Department,
Government of Kerala, Thiruvananthapuram – 1. ...Respondents

(By Advocate Mr.M.Rajeev,GP [R1-3])

This application having been heard on 18th October 2012 this
Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant has sought in this Original Application the following
reliefs :-

1. To direct the respondents to regularize the break in
service of the applicant from 1.2.2004 to 18.4.2004 and to
grant him all attendant benefits within a stipulated time frame.
2. To pass such other order or direction as may be
deemed just, fit and necessary in the facts and circumstances
of the case.

.2.

2. Briefly stated, the applicant was functioning as Superintendent of Police from 23.1.1999 and became eligible for consideration for appointment to the Indian Police Service in 2000. However, his case for Indian Police Service could materialize only in 2004 and by order dated 8.4.2004 he was inducted into the Indian Police Service Cadre. He joined duty on 19.4.2004 pursuant to the notification vide Annexure A-3 dated 17.4.2004.

3. Prior to his induction as Indian Police Service Officer in 2004, the applicant stood retired from the State Police Service on attaining the age of 55 years on 31.1.2004. Thus, from 1.2.2004 to 18.4.2004 he was not in service. Representation filed by him for condoning the break from 1.2.2004 to 18.4.2004 did not yield any favourable response. Hence, this Original Application with the prayer as mentioned above.

4. Respondents have contested the Original Application. According to them, request for regularization of the period from 1.2.2004 to 18.4.2004 cannot be considered as the applicant was not governed by any service rules nor has he enjoyed patronage of any Government during that period. The respondents have also cited certain decisions to the fact that regularization of the interregnum period between the State Service and All India Service has not been permitted. Annexures R-2(b) to R-2(c) refers.

5. Counsel for the applicant, after narrating the brief facts of the case, invited the attention of the Tribunal to an order dated 3rd March, 1999



.3.

in O.A.No.1553/97 wherein a declaration was made by the Tribunal that the applicant therein was also entitled to pay and allowances for the period he was out of employment due to the delay on the part of the respondents to grant him promotion to Indian Police Service. It is on the basis of this order the counsel insisted upon regularization and consequential benefits of the applicant's absence for the period from 1.2.2004 to 18.4.2004.

6. Counsel for the respondents, on the other hand, submitted that as the applicant did not perform any duties, even as per "No work, No Pay" doctrine he is not entitled to any benefits.

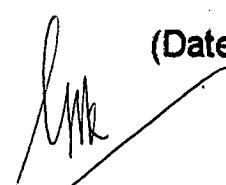
7. Arguments were heard and documents perused. At the very outset it has to be made clear here that the applicant has impleaded only State Government and none else as the respondents. The period in question (1.2.2004 to 18.4.2004) is anterior to the applicant's induction in the Indian Police Service Cadre. As such, any grievance that occurred prior to his induction would fall within the ambit of State Police Service, which could be agitated in a different forum. It is only when any grievance is [✓]approximately linked to the entitlement of the applicant to be considered for All India Service etc. that this Tribunal can hold jurisdiction. As regards the precedent relied upon by the counsel for the applicant, the period of absence which was sought to be regularized in that case was posterior to the induction of the applicant therein in the All India Service Cadre. As such in that case it was this Tribunal alone which could enjoy the jurisdiction.

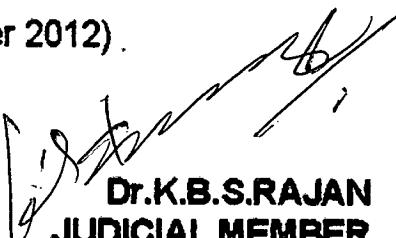
.4.

8. In view of the above, the Tribunal has no jurisdiction to deal with this case. It is for the applicant to agitate before an appropriate forum. Needless to mention that the period spent in prosecuting this Original Application from March, 2011 till date shall be discounted for the purpose of reckoning limitation period in the appropriate forum if the applicant chooses to proceed accordingly.

9. The Original Application is, therefore, dismissed on account of lack of jurisdiction. No costs.

(Dated this the 18th day of October 2012).


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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