

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 23 of 1990

DATE OF DECISION 23-10-90

M. Radhakrishnan, I.F.S. Applicant (s)MR Krishnan Nair Advocate for the Applicant (s)

Versus

Chief Secretary, State of Kerala & 3 others Respondent (s)P.V. Mohanan for R 1 & 2 Advocate for the Respondent (s)
V. Krishna Kumar for R-4
None appeared for R-3

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENTN.V. Krishnan, AM

The applicant is an officer in the Indian Forest Service belonging to Kerala State cadre. He retired on superannuation on 30th September 1988.

2. It is admitted that before his retirement, a Disciplinary Enquiry proceeding was initiated against him on 27-5-87 which is still pending, even after his retirement.

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3. As the Accountant General, Kerala certified (Annexure-I) that the applicant was entitled to a monthly pension of Rs.1882/- and a retirement gratuity of Rs.63938/- the Principal Chief Conservator of Forests (Protection) issued an order dated 4-11-88 (Annexure-II) according sanction to the grant of the aforesaid pensionary benefits. Based on the order, the Accountant General, Kerala issued the Pension Payment Order dated 14-12-1988 (Annexure-III) to the Treasury Officer, Palghat which gives the latter authority to disburse the pensionary benefits to the applicant. The commuted value of pension of Rs.78702/- was also authorised by Annexure-IV letter dated 14-12-88 of the Accountant General. Before the applicant could get the benefits of these orders, the respondent No.3 (Principal Chief Conservator of Forests) informed the applicant by Annexure-VI order dated 6-1-89 that a disciplinary case is pending against him. Hence the order at Annexure-II sanctioning final pension and DCRG was cancelled. An amount of Rs.1421/- was sanctioned as provisional pension. The entire gratuity was withheld it is by the order, though admitted that later on, gratuity was paid off withholding Rs.6000/-.

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4. Being aggrieved of these developments, the applicant in the OA has prayed for the following reliefs:

- i. to disburse within one month, the full pension of Rs.1882/- + D.A. per mensum as well as the DCR Gratuity of Rs.63,938/- sanctioned as per Annexure-II order of the third respondent and commutation value of the portion of the pension amounting to Rs.78702/- authorised as per Annexures III, IV and V letters of the Accountant General, Kerala dated 14-12-1988.
- ii. to pay the interest to the applicant at the rate of 18% per annum for the belated payment of the full pension, D.C.R.G. and commutation value of pension for the period from 1-10-1988 to the date of actual payment.
- iii. to pay adequate compensation to the applicant for delayed payment of the above full pension and D.C.R.G. and commutation value of pension and also cost of proceedings to the applicant, and,
- v. to pass any other order or orders which are deemed fit and proper in the facts and circumstances of the case.

5. The counsel for the respondents submitted that after examining the written statement of defence filed by the applicant it was tentatively decided to recover an amount of Rs.6000/- from the applicant and the Union Public Service Commission was consulted for the imposition of penalty as is required under the All India Service (Discipline & Appeal) Rules. The U.P.S.C. in turn advised to initiate a regular

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enquiry under the provisions of the Rules. Hence the case was resumed and the disciplinary proceedings are still pending.

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5. In so far as the pensionary benefits is concerned, respondents state that by Ext.R-1 order dated 30-12-89 full pension of Rs.1882/- and all gratuity except Rs.6000/- was directed to be paid to him on/provisional basis. It is also seen from Annexure-X order dated 23-5-1990 that even the amount of Rs.6000/- which was withheld from gratuity was also directed to be paid.

6. In the circumstances, we felt that the grievance of the applicant is more against delay in finalisation of Disciplinary Enquiry proceedings though it was initiated by 1987, because we notice that he has already received all *ll a* pensionary benefits and pension on/provisional basis. Therefore, there can be no grievance on that ground. If there is delay in finalising the Disciplinary Enquiry, the applicant should approach the authorities concerned to expedite the disciplinary proceedings and if not successful, he could approach the Tribunal, if so advised, in this behalf. The learned counsel for the applicant *ll then* *therein* sought leave to amend the prayer in the Original

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Application / include such a relief. The request to amend
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was not allowed by us, that would be in the nature of
substantive relief, totally different from the relief
sought in this application.

7. For the reasons mentioned above and on the facts
and in the circumstances of the case, we are of the view
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that there is no merit in the application, hence it is
dismissed.

There will be no order as to costs.

N. Dharmadan

(N. Dharmadan)
Judicial Member

N. V. Krishnan

(N.V. Krishnan)
Administrative Member

23-10-1990

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