

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A. No.236/86

EP Amirthakumaran Nair : Applicant

vs

1 Union of India rep. by
Ministry of Home Affairs
New Delhi

2 The Administrator
Union Territory of Lakshadweep
Kavaratti.

3 The Executive Engineer, PWD
Union Territory of Lakshadweep
Kavaratti

: Respondents

Mrs K K Usha, ND Premachandran
and Mrs VP Seemanthini

: Counsel for
Applicant

Mr PV Madhavan Nambiar, Sr CGSC

: Counsel for
Respondents

CORAM

Hon'ble Shri P Srinivasan, Administrative Member
and

Hon'ble Shri G Sreedharan Nair, Judicial Member

(Order pronounced by Hon'ble Shri P Srinivasan,
Administrative Member)

O R D E R

The applicant who is currently working as a
Junior Engineer at Cochin under the Government of
the Union Territory of Lakshadweep complaints in
this application that he was wrongly transferred
from Kavaratti where he was working earlier, to
Chethlet, ignoring his representations about
personal problems. Specifically, he has challenged
Annexure-H to the application which is memorandum
dated 17.2.1986 issued by the Executive Engineer,
P.W.D., Union Territory of Lakshadweep rejecting
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his request for cancellation of his transfer to Chetlet. The other grievance of the applicant is against the decision conveyed in Office Memorandum dated 23.1.1986 issued by the Executive Engineer to the effect that the period from 5.11.85 till the date of his joining at Chetlet would be treated as extra ordinary leave on loss of pay. His claim here is that he had sufficient earned leave and half pay leave to his credit against which the period of his absence from 5.11.85 could be adjusted and the authorities unfairly treated this period as leave without pay.

2 When the matter came up for hearing before us to day, Smt Seemanthini, learned counsel for the applicant and Shri PVM Nambiar, learned counsel for the respondents informed us that the applicant has since been transferred to Cochin and the grievance against his transfer to Chetlet and the rejection of his representation against the transfer no longer survives. The first prayer is, therefore, rejected as having become superfluous.

3 So far as the treating of the period from 5.11.85 is concerned we are told by the counsel that the period is upto March 1986. We are satisfied after perusing the application and hearing counsel

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that this period should be adjusted against earned leave and half pay leave as is available to the applicant instead of treating it as extra ordinary leave. Smt Seemanthini assured us that the applicant had enough earned leave and half pay leave to his credit to cover this period.

We, therefore, direct the respondents to treat the period from 5.11.85 till the date of the applicant joined at Chatlet as period spent on earned leave and half pay leave to the extent such leave is available to his credit.

4 Learned counsel for the applicant wanted to raise the question of the propriety of the applicant having been placed under suspension which is not one of the prayers in the application. In any case, the question as to how the period of suspension should be treated will depend on the final outcome of the relative penalty proceedings i.e., after the appeal and other proceedings are concluded and it is premature for us to say anything on the subject now. We, therefore, leave this open for the applicant to agitate before the proper forum at the appropriate time.

5 In the result we issue the following direction:
The respondents will adjust the period of absence

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of the applicant from 5.11.85 till the date he joined at Chetlat in March, 1986 against earned leave and half pay leave available to him.

The application is disposed of accordingly.

Parties to bear their own costs.

G Sreedharan Nair
4-5-88

(G Sreedharan Nair)
Judicial Member
4.5.88

P S Srinivasan
4/5/88

(P Srinivasan)
Administrative Member
4.5.88

Index: Yes/No