

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.268/2003

Dated Wednesday this the 2nd day of April 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Jose Thomas
S/o K.V.Thomas
Kalapurackal House
Near Railway Station
Kuruppanthara
Manjoor P.O.
Kottayam District.

Applicant.

(By advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by
The Secretary
Ministry of Finance
Department of Company Affairs
New Delhi.
2. The Regional Director
Department of Company Affairs
Shastri Bhavan
26, Haddows Road
Chennai.
3. The Official Liquidator
High Court of Kerala
Ernakulam, Kochi.

Respondents.

(By advocate Mrs.S.Chithra, ACGSC)

The application having been heard on 2nd April, 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant while working as Upper Division Clerk with special pay of Rs.70/- in the office of the third respondent was promoted on adhoc basis as Junior Technical Assistant (JTA) on 26.10.95. On promotion, the applicant's pay was fixed in the post of JTA reckoning the UDC pay with special pay. However, due to some administrative exigencies, the applicant had to be reverted to the post of UDC for 2 days from 1.4.96 to 2.4.96. Thereafter, it would appear that the applicant was again promoted

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on adhoc basis as JTA and in due course he retired on 30.1.98. The applicant's grievance is that when he was reverted from the post of JTA as UDC, he ought to have been reverted back to the post of UDC with special pay in order that on his subsequent promotion as JTA, his pay might be refixed after counting the benefit of special pay, which eventually would have an effect on his pensionary benefits. The applicant made A-1 representation dated 13.3.97 whereupon the respondents wanted some clarificatory material as per A-2 dated 8.10.97. By A-3 elaborate letter dated 22.10.97 the applicant furnished the required particulars and prayed for an early action. Since there was no action on the part of the respondents, the applicant followed up the matter with further representations A-4, A-5 & A-6. Since pay fixation is a continuous cause of action, the applicant has filed this OA for the following reliefs:

- (i) To call for the records relating to A-1 to A-6 and to direct the respondents to consider the post of UDC held by the applicant after reversion for 2 days notionally as a post of UDC with special pay.
- (ii) To direct the respondents to sanction and disburse the future monitory benefits by refixing the pay of the applicant in accordance with rules.
- (iii) To direct the 1st respondent to dispose of A-6 representation immediately.

2. When the matter came up for admission, Shri Shafik M.A., learned counsel of the applicant pointed that the respondents ought to have taken a decision at least on the applicant's A-6 representation dated 27.3.2002 since as a retired person, his pensionary benefits required to be determined at the earliest on the basis of his claim. Smt.S.Chithra, learned ACGSC, who took notice on behalf of the respondents, stated that the respondents would have no objection to consider the applicant's A-6

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representation dated 27.3.2002 on the basis of the material, if any, furnished already in relation to the applicant's claim and to pass an appropriate order in accordance with the relevant rules and orders on the matter.

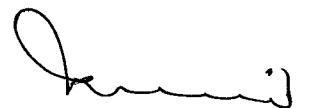
3. In the light of the submissions made by the counsel concerned, we dispose of this application directing the first respondent to consider A-6 representation of the applicant dated 27.3.2002 and dispose of the same by passing a speaking order thereon and serving the same on the applicant within a period of 3 months from the date of receipt of the copy of this order. No order as to costs.

Dated 2nd April, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

aa.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER