

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 27  
T. A. No.

199 0

DATE OF DECISION 15.10.90

L. Devaki Amma Applicant (s)

Mr. M R Rajendran Nair Advocate for the Applicant (s)

Versus

UOI rep. by Secretary, Respondent (s)  
Communications, New Delhi and others

Mr. P. Sankarankutty Nair, ACS Advocate for the Respondent (s)

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? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant states that she was engaged by the second respondent as a part-time contingency paid employee w.e.f. 1.4.1967 vide Annexure-I. She was employed as Sweeper cum Watchman. This appointment continued till 16.10.1984 on which date she was admittedly appointed a group 'D' employee. On attaining the age of superannuation on 30.1.90, she has since been retired.

2. The applicant requests that she may be granted the benefit of retirement pension.

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3. The respondents have filed reply resisting this demand on the ground that under Rule 49(1) of the C.C.S. Pension Rules, 1972, a person who retires before putting in a qualifying service of 10 years is entitled to only gratuity as mentioned therein which admittedly has been paid.

4. The applicant's counsel admits that the service rendered as a group 'D' employee is less than 10 years. It is, however, submitted that the service rendered as a contingency paid employee can also be accounted towards qualifying service as per Ministry of Finance O.M. dated 14.5.1968 Annexure-V. The learned counsel for the applicant submits that though on the face of the order it can be claimed that it applies only to contingency paid employees who have been in whole time employment, yet that will be an conditional interpretation of a beneficial order for persons like the applicant, who had served as many as 17 years of part-time continuous service, should not be denied the benefit of Annexure-V memorandum merely on the ground that they have been engaged on part-time basis.

5. The counsel for the respondents contended that Annexure A-V memorandum is clear and unambiguous. Further its benefits cannot be extended to the applicant since she has not questioned the validity of that order in so far as it restricts its applicability to full time employees.

6. The learned counsel for the applicant submits that, in the alternative, the respondents who have with them the particulars of work done by her as a contingency paid employee may calculate the total amount of work done by her in terms of hours from 1.4.1967 till she is absorbed as a group 'D' employee on 16.10.1984 and convert these hours in terms of qualifying service of years, months and days, by dividing the same by eight, as eight hours a day is the normal working hours for Government servants. It is submitted that if this period of service is also added <sup>to the regular service since 16.10.84, and if on that basis</sup> / calculation is made, the applicant becomes entitled to retiring pension, that pension may be granted. This is a new prayer not made in the application.

7. There is another point made by the applicant that had she continued as a contingency paid worker, she would have been retired after attaining the age of 65 years, whereas now, as a regular group 'D' employee, she has been retired after attaining the age of 58 years.

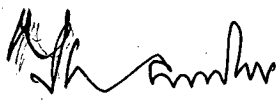
8. We have heard the counsel and we feel that the applicant's case has to be viewed with some sympathy. We are also of the view that at present she is not entitled to relief, except a direction to consider the representation ..

9. Therefore, in view of the submissions and arguments raised by the counsel for the applicant, we think it proper


to direct the applicant to submit a representation to the respondents in terms of her submission raised in para 6 <sup>ans para 7</sup> supra as a supplement to the representation at Annexure-A <sup>2</sup> IV. If such a representation is submitted within two weeks from the date of receipt of this order, supplementing Annexure A-IV representation, the respondents are directed to dispose of the Annexure A-IV representation as supplemented by the fresh representation now to be submitted, within a period of three months from the date of receipt of the fresh representation.

10. The applicant is also at liberty to agitate the matter, if so advised, if she is not satisfied with the order that may be passed by the respondents.

11. With the above directions the application is disposed of. There will be no order as to costs.

  
15/4/90

(N. Dharmadan)  
Judicial Member

  
15/4/90

(N. V. Krishnan)  
Administrative Member